No Democracy without Justice:
Amartya Sen’s unfinished business with the Capability Approach

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“At the level of the pure theory of justice, it would be a mistake to lock prematurely into one specific system of “weighting” some of these competitive concerns [such as between capabilities], which would severely restrict the room for democratic decision making in this crucial resolution (and more generally in “social choice,” including the variety of processes that relate to participation). 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”.

Amartya Sen, Development as Freedom (1999), pp. 286-87

1. Introduction

‘Democracy’, ‘freedom’ and ‘justice’ are increasingly and imprecisely invoked as important solutions for developing world problems and threats to international security. The capability approach has much to say about what democracy and freedom should really be about, in all societies, based on a fuller account of ‘freedom’ and a more compelling notion of ‘equality’ and approach to ‘justice’. However, one enduring criticism of Sen’s work has been his failure to tell us what capabilities matter more than others, and why. More formally, he has critiqued other theories of justice in the liberal tradition, but not offered one of his own that comprehensively links capabilities and justice. This article examines Sen’s ‘silence’ on justice and finds that at the heart of the matter is a complex interdependent relationship between justice and democracy in Sen’s work. The latter, as conceived by Sen,
is central to his concern for agency, choice and plurality within societies. However this article argues that the critical role of democracy is significantly undermined in Sen’s elaboration in the absence of a criterion of justice that would protect its fair and effective functioning in a manner consistent with the very essence of capability egalitarianism. It is suggested that in this problem may potentially lie the elements of a solution, namely a capabilities-based theory of justice centred on equality of political capability. The outline of such a solution, and its potential shortcomings, is advanced here. This article is concerned with social justice institutions within a society, and while it is hoped that it offers some useful lines of reasoning for debates on global justice and just global institutions, these are not topics dealt with here.

2. Essentials of the Capability Approach

The capability approach has developed over the past 25 years from suggestions for an alternative ethical scheme to understanding equality and impartial treatment than that taken by utilitarianism or by John Rawls’ theory of justice (see especially: Sen 1980, 1982, 1992). It has evolved as a theoretical framework for evaluation of individual well-being and social arrangements, as well as for guiding institutional and policy design, and its influence extends to welfare economics, social policy, political philosophy and international development. The capability approach argues that evaluating the status of individuals and societies must go beyond income, utility, rights and resources to the actual lives we lead and choose to lead: the freedoms and opportunities to be and to do that people have reason to value and which constitute their quality of life (see especially: Sen 1993 and 1999; Nussbaum 2000 and 2003). In the domain of development, where it has informed the concept of human development, iv the capability approach has provided a compelling
alternative to income/growth-centred methods for conceptualising the ends of development, evaluating well-being/poverty and formulating development policy.

Pioneered by Amartya Sen and significantly developed more recently (and distinctively) by Martha Nussbaum and others, the capability approach has its intellectual roots in the ideas of diverse thinkers in the liberal tradition, especially Aristotle and Adam Smith, whose concern with actual human living has been lost in dominant contemporary approaches in liberal philosophy and politics rendering them ethically flawed. The capability approach is first of all an evaluative framework and, in the work of Sen, as yet falls short of a full theory of justice, though Nussbaum in particular has pushed its development in that direction (see Section 3 below). In other words, it theoretically justifies normative prescriptions about what evaluative ‘space’, or types of information, we should use to measure individual well-being and to make interpersonal comparisons in evaluating social and economic policy, but it does not definitively say against which criteria, and with what weighting, such measurement should take place and why. Nevertheless, Sen emphasises that what is included or excluded in the informational base for evaluation constitutes the real “bite” of any theory of social ethics (Sen 1999:56-7).

Sen uses the normative basis of evaluation under the capability approach to critique the informational bases, and thus normative merit, of other major philosophical approaches to justice in the liberal tradition, respectively, aggregative neo-liberal economics, utilitarianism, libertarianism and Rawlsian liberal justice. National income and growth measures alone tell us little about distribution and thus how deprived people are doing. Focusing on desire-fulfilment or satisfaction is burdened by adaptive preferences in the mental state and is too often limited in practice to measuring incomes, which are important to, but not exhaustive of, the value of people’s lives (for example, differences in access to
social goods are not included). Rights, though valuable, are merely formal and tell us nothing about people’s actual outcomes. And resources (such as Rawls’ primary goods), even though they usefully take us well beyond utility and rights, do not equate with well-being as they are converted in different ways depending on personal, social and environmental factors, leading to varied achievements (see Sen 1992, 1993 and 1999).

By contrast, the capability approach emphasises the plurality and heterogeneity of the lives human beings lead or have reason to value, and the need to account for this diversity in measuring individual and societal advantage. It finds this adequately undertaken by using a richer and more appropriate informational base focusing directly on individuals’ quality of life and substantive freedoms, whether in addition to other measures or as an exhaustive approach. In evaluating individual advantage, the capability approach distinguishes between the freedoms, or opportunities, an individual has from her actual achievements, the “beings” and “doings” that make up the realised states of affairs in her life. The former constitute “capabilities” and the latter “functionings” achieved. The capability approach resonates loudly with the concept of human development, defined as “both the process of widening people’s choices and the level of their achieved well-being” (UNDP 1990:9).

Finally, Sen’s work on the capability approach began with the famous question “Equality of What?” (Sen 1980; 1982) and beyond specifying the more appropriate informational base for addressing this question, Sen has also considered extensively in what manner equality, or more correctly inequality, should be assessed (Sen 1992). Fairness, under the capability approach, involves looking beyond equal allocation of specific resources to minimizing differences in the extent to which individuals face obstacles in achieving their capability potential, that is, pursuing “equality of attainment shortfall”.
3. Criticism of Sen’s ‘Silence’ on Justice

Despite finding considerable support for his treatment of freedom, well-being and substantive equality, many thinkers and practitioners have criticised Sen for his failure to be specific on which capabilities matter, which ones more than others, and why. From a purely practical perspective, this is a weakness as regards operationalising the capability approach (Saith 2001; Robeyns 2003; Stewart and Deneulin 2002). For those concerned as well with normative issues, the shortcoming is Sen’s failure to articulate and justify a theory of social justice (Nussbaum 2000 and 2003; Peter 2004; Pogge 2003; Fabre and Miller 2003; Deneulin 2003). The justice concern arguably begets the operational concern. That is, the absence of a normative basis for a standard of justice, or clear procedures for identifying different standards (Robeyns 2003), impedes a justified set of enumerated criteria and priorities for evaluation and enforcement, arguably rendering operational uses such as the Human Development Report “comparative merely” (Nussbaum 2002:35) in the long run.vi

The importance of the ‘justice’ criticism of Sen is explained well by Martha Nussbaum (Nussbaum 2000; 2003). Nussbaum, whilst clearly a strong supporter of Sen’s approach to evaluating individual advantage in terms of agency, capabilities and functionings, as well as of his understanding of substantive inequality (especially as regards women and the disabled), finds this far short of the normative guidance required to demand and affect real change:

“[These ideas] do not take us very far in thinking about social justice. They give us a
general sense of what societies ought to be striving to achieve, but because of Sen’s
reluctance to make commitments about substance (which capabilities a society ought most
centrally to pursue), even that guidance remains but an outline. The use of capabilities in
development is typically comparative merely … concerning what level of health service, or
what level of educational provision, a just society would deliver as a fundamental
entitlement of all its citizens, the view is suggestive, but basically silent.” (Nussbaum 2003:35)

The capability approach will provide useful guidance, argues Nussbaum, “only if we formulate a definite list of the most central capabilities, even one that is tentative and revisable” (Nussbaum 2003:36). To this end, Sen has made repeated reference to some “basic” capabilities that it seems ‘go without saying’, and which a just and fair society would seek to ensure for all its citizens, including longevity of life, health, education, social bases of self-respect and civil and political rights (see Sen 1980, 1992, 1993 and 2002; see also Nussbaum 2003). In Development as Freedom, Sen reaffirms a concern for “basic freedoms” such as literacy and political participation and “elementary” capabilities (including protection against fundamental deprivations such as starvation and “escapable” morbidity: Sen 1999:36). He proceeds to elaborate five categories of ‘instrumental’ freedoms: political freedoms; economic facilities; social opportunities; transparency guarantees and protective security (welfare) (Sen 1999:38-40).vii

Nussbaum stresses that what remains is the “difficult and more essential task” of endorsing a list from an intuitionally obvious set of basic capabilities or a concept as broad as freedom: “One cannot have a conception of social justice that says, simply, ‘All citizens are entitled to freedom understood as capability’” (Nussbaum 2003:48). For some time, Nussbaum has gone further to elaborate a specific list of ten “Central Human Capabilities” which she derives from a conception of the dignity of the human being and a suggested “overlapping consensus” on values universal to humanity (Nussbaum: 2000:78-80; 2003:40-3).viii Nussbaum has in mind constitutional guarantees that citizens of all societies should be afforded, and against which the state may be judged (Nussbaum 2003:40).
Nevertheless, Nussbaum’s list and her approach, however much she qualifies it as intentionally vague and open to revision, has been criticised as being, variously, unavoidable based on fundamental metaphysical assumptions and of contestable prioritisation (Fabre and Miller 2003), western-liberal-centric (Stewart 2001), undemocratic in genesis (Peter 2004) and lacking legitimacy (Robeyns 2004; cf 2003). Nussbaum faces in her critics the classic liberal dilemma of caring for equality and plurality but being hand-tied to prescribe too much to protect them without good reason.

4. Reasons for Sen’s ‘Silence’ on Justice

The criticisms levelled against Nussbaum’s list relating to ethnocentricity, contestability and lacking (democratic) legitimacy give us a strong indication of the cause for reticence on Sen’s part. The fundamental reason for Sen’s divergence from Nussbaum lies in his more stringent emphasis on the normative foundations of the capability approach in agency and choice, and his view of the capability perspective as “inescapably pluralist” (Sen 1999:76). Crocker, supporting Sen, aptly captures this divergence: “[t]he role that Nussbaum gives to the philosopher and a constitution, Sen gives to the society or group itself” (Crocker 2006: 311).

The capability approach is rooted in liberal moral and political philosophy, with a Kantian emphasis on individual autonomy and free choice, although its broad notion of equality arguably represents a critical strand in liberalism. Accordingly, the individual, and individual agency, have axiomatic value, with a liberal respect for different conceptions of the good reflected in part in the distinction made between “capabilities” and “functionings” achieved. While realised functionings are tangible and more readily measurable, the ability to choose different combinations of functionings, embodied in an individual’s “capability set”, represents freedoms and opportunities of intrinsic importance to an individual’s quality
of life. Well-being and agency have prior normative value, and the capability set “stands for the actual freedom of choice a person has over alternative lives that he or she can lead” (Sen 1992:114).

Sen recognises, however, that individual freedom is exercised in a social context that both deeply effects and is effected by this freedom: “the exercise of freedom is mediated by values, but the values in turn are influenced by public discussions and social interactions, which are themselves influenced by participatory freedoms” (Sen 1999:9). Free expression and social and political participation are of intrinsic value to individual agency and well-being, but Sen emphasises their instrumental and constructive roles in shaping social arrangements, values and policies: “individual freedom is quintessentially a social product, and there is a two-way relation between (1) social arrangements to expand individual freedoms and (2) the use of individual freedoms not only to improve the respective lives but also to make the social arrangements more appropriate and effective” (Sen 1999:31). On the one hand, this is incorporated in the evaluative space whereby individual, social and environmental circumstances (“heterogeneities”) that impact upon individuals’ capability sets are expressly taken into account in interpersonal comparisons (Sen 1999:67-72). On the other hand, however, it also means that Sen is particularly concerned with “the agency role of the individual as a member of the public and as a participant in economic, social and political actions” (Sen 1999:18).

In sum, a liberal respect for plurality in individual views of the good life goes hand in hand with freedom to choose for oneself what to be and to do, as well as to influence the social arrangements (institutions, policies, cultural values) that greatly influence such choices. Thus even for very “general” and “elementary” functionings essential to an analysis of poverty, such as nourishment, shelter, and escapable morbidity, Sen is concerned to account
for the fact that “the specific form their fulfilments may take would tend to vary from society to society” (Sen 1992: 110). Sen’s cautiousness towards specifying a list of capabilities and weights, his admitted open-endedness or incompleteness (Sen 1992:44-9), or towards articulating a theory of justice, stems from his concern that it is individuals who have the legitimate right to choose and prioritise capabilities and functionings achieved, the lives they have reason to value, whether for themselves specifically or as part of collective discussion and decision-making towards social arrangements that impact upon their agency and well-being.

5. The Central Role of Democracy based on Public Discussion

Sen turns to participatory decision-making for selecting capabilities and specifying a standard of justice where Nussbaum assumes an overlapping consensus on philosophically justified elements of human dignity. Nussbaum argues that Sen’s insistence on agency and choice, and concern for plurality, leads him to leave too much to democratic deliberation: “He feels that people should be allowed to settle these matters for themselves ... suggesting that democracy is inhibited by the endorsement of a set of central entitlements in international political debate” (2003:44). In this section and the following, Sen’s conception of democracy is examined critically, and it becomes apparent that the opposite is true, that is, democracy, so critical to Sen’s capability approach, is itself inhibited if there is a lack of protection of key entitlements required for equality of political capability.

Sen is becoming increasingly strident in making a case for universal democracy (Sen 1999:147-52; also Sen 1999a, 2003, 2003a). Perhaps since the “Asian values” debate, Sen has seen that his reasoned ideas for liberal egalitarianism under the capability approach for all societies, especially less-developed ones, are seriously threatened by arguments that political freedom and public participation, as understood in the liberal tradition, are not
universal values. Here, Sen emphasises democracy as a “demanding system” based on public discussion and deliberation, rather than a “mechanical condition” based merely on elections and voting (Sen 1999a). The former is grounded in liberal political philosophy, supported by social choice theory and embodied in the notion of “government by discussion” that has “global roots”, or as Rawls defines it, democracy as the “exercise of public reason” (Sen 2003).xii

Developing on the normative principles of freedom, agency and choice discussed in the preceding section, a notion of democracy that embodies and ensures the intrinsic, instrumental and constructive value of individual participation in matters of social choice and public decision-making plays an integral role in Sen’s capability approach. Political freedoms and civil rights allow for “informed and unregimented formulation of our values [through] openness of communication and arguments” and free speech and democratic choice are required to achieve “a proper understanding of what economic needs are” and “express publicly what we value and to demand that attention be paid to it” (Sen 1999: 152-3).

However, if public discussion and reasoned social choice beget the formation of social arrangements which influence individual capabilities and freedoms, then the fact and requisite quality of such discussion and choice would seem to become non-negotiable under the capability approach, rendering democracy “critically important for the development of human capabilities” (Sen 2002a: 79). Thus Sen gives “a central place to guaranteeing free public discussion and deliberative interactions in political thought and practice” (Sen 2003).

We arrive at the crux issue that despite Sen’s concern that society choose its values, capabilities and standards of justice for itself, the very fact of participating effectively in such choice is a prior condition requiring adequate and fair protection, lest they become
Hobson’s choices for the disadvantaged. In the language of Rawls, we are talking about the capability approach equivalent of decision-making processes critical to the “basic structure” for which “background justice” must be ensured over time.


Although Sen speaks of guaranteeing the “central place” of political freedoms, in Development as Freedom he offers little in the way of guidance to ensure its place and this progressively undermines the cogency of his argument. When Sen is discussing empirical interconnections of capabilities and freedoms, he makes some strong statements: “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” (Sen 1999:32); “social inequalities too can seriously interfere with equality of political participation” (Drèze and Sen 2002:10); political inequalities “give disproportionate power to those who command crucial resources such as income, education and influential connections” (Drèze and Sen 2002:28).

However, in his chapter in Development as Freedom dedicated to democracy and normative issues therein, Sen takes a different, more agency- and freedom-based, approach: “political freedoms and liberties are permissive advantages and their effectiveness would depend on how they are exercised” (Sen 1999:154). Thus, although democracy may be famously successful in preventing famine, where democracy is failing to address problems such as undernutrition, persistent illiteracy and gender inequality, Sen, while heavily critical of the situation, reasons that what is required is “more effective use of communication and political participation … fuller practice of democracy”: “The opportunity [democracy] opens up has to be positively grabbed in order to achieve the desired effect” (Sen 1999:154 and 155). Drèze and Sen (2002) echo this line in their analysis of development and social and political
participation in India, where they advocate ways to improve the practice of Indian democracy.

Suddenly, Sen seems far away from his careful concern for interconnected capabilities, as well as the mediating influence of social values, conversion factors and adaptive preferences in the evaluative space. 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 arrangements which influence their freedom understood as capabilities. Yet Sen often states things rather bluntly, without asking too much about why: “In a democracy people tend to get what they demand, and more crucially, do not typically get what they do not demand” (Sen 1999:156). From the standpoint of equality and capabilities, shouldn’t we be more concerned with what people justly deserve, and how society fairly supports them to best achieve this?

Sen’s concern for ensuring vital political and civil capabilities (“it is also crucial to safeguard the conditions and circumstances that ensure the range and reach of the democratic process”, Sen 1999:158), often seems in the real ‘bite’ of his own prescriptions little more than emphasising basic civil and political liberties and promoting attention towards matters such as the “vigor of multi-party politics”, the “activism of opposition parties” (Sen 1999:155-6) and, generally, improved democratic practice (Drèze and Sen: 347-79). Deneulin argues that Sen takes a consequentialist approach, offering little criteria for decision-making save that they are ‘democratic’ and help to expand valued individual freedoms (Deneulin 2003:18). Arguably, the consequences he seeks may be elusive because of a dearth of criteria, for just democratic decision-making, but more broadly for an overriding criterion of social justice.
In addition to undermining its own capability-based priorities of real and meaningful individual agency and opportunity, Sen’s failure to analyse and protect preconditions for effective democracy renders his approach vulnerable to threats from the political economy of democratic activity. As Stewart and Deneulin point out, “democratic discussions are not so easy to have and democratic understandings even more problematic … Sen’s concept of democracy seems an idealistic one where political power, political economy and struggle are absent” (Stewart and Deneulin 2001:63-4). This is always a difficult challenge for a liberal political theory, but unlike theories that expressly disregard such concern, such as libertarianism, Sen’s failure to address this is at odds with his deep notion of equality.\textsuperscript{xiv}

Sen seems to focus more on procedural aspects rather than substantive equality of capability in the political space. He often argues for the salience of a substantive conception, but, in the absence of a position on justice, offers little to minimally protect it. Sen stakes out an imprecise middle ground between the fully responsible individual and the all-deciding state: “The alternative to an exclusive reliance on individual responsibility is not, as is sometimes assumed, the so-called nanny state. There is a difference between ‘nannying’ an individual’s choices and creating more opportunity for choice and for substantive decisions for individuals who can then act responsibly on that basis” (Sen 1999: 284).\textsuperscript{xv} How much is ‘more’, without nannying? And, ‘equally’, how much ‘more’ is ‘just’?

The paramount importance of democratic processes to the capability approach and yet Sen’s failure to adequately safeguard their fair functioning, is directly linked to the absence of a capabilities-based theory of justice that would, in part, provide the foundational normative minima against which democratic outcomes could be adjudged as just. For Sen’s arguments on democracy to reconcile with his approach of capabilities and egalitarian promise, he must resolve this problem. Looked at from the other side, however, it is in fact through a
capabilities-based articulation of the essential requirements for political freedoms and participation that Sen may answer his critics.

7. Towards a Capability-Based Theory of Justice based on Democracy & Political Capability

It is not the aim of this article to specify in detail what a capabilities-based theory of justice may look like for Amartya Sen. Rather the article has sought to explain why articulation of a theory is unavoidable under the very terms of Sen’s approach. More optimistically, the preceding sections on democracy also suggest that Sen may have a philosophical basis and theoretical frame for specifying such a theory, for the reason that a just liberal society, to be and to endure as liberal and just, must aim to guarantee each individual’s equal political capability to participate in the formation of social arrangements that in turn greatly impact upon their freedoms. This section seeks to suggest some basic essentials of what Sen’s theory of justice may entail. The subsequent section cautions on challenge and potential limitations.

The underlying reasoning for a theory of justice based upon political capability can now be stated. A liberal society cares for its individuals’ agency and free choice and respects a plurality of ideas of the good. But it also recognises that each person’s freedom is experienced uniquely based on individual attributes, as well as in a physical world and a social context that influences the content and exercise of that freedom, through such aspects as cultural values, laws and resource allocation. An egalitarian liberal society therefore strives to give each individual substantive equal opportunity to participate in the deliberations and decisions of the society relating to its social arrangements in order to shape individual and collective values and choices, and ensure the best chance of valuable outcomes for all. To the extent a member of a society is not afforded equal protection and
opportunity to participate in societal value formation and deliberation for any good reason, justice does not fully prevail. Beyond some threshold of injustice, the individual has a claim to fair treatment against his community, and the freedom of those more fortunate may be seen as enjoyed unfairly. Injustice may happen in a just society from time to time, and it may be claimed and remedied. However, the justness of a society over time is protected by its core institutions, which entitle and ensure to each citizen the requisite equal opportunity of political participation.

A theory of justice based on the political capability would thus entail that a minimum level of each individual’s political capability be guaranteed at the outset. Sen’s deep consideration for equality, and his convincing arguments for the interdependence of capabilities (Sen 1992 & 1999), necessitate that a full elaboration of what constitutes political capability, or, more accurately, what is required to protect equality of political capability, will go far beyond political freedoms as civil and political rights. If the exercise of political freedom is to be “intimately connected with the demands of equality” (Drèze and Sen 2002:9), a sufficiently rich conception of justice and corresponding institutions are required.

The task of elaborating the content of the most central capability, political capability, is assisted in part by strands in the literature that consider linkages between the capability approach and deliberative democracy. Although deliberative democracy thinking is more concerned with what is required in the machinations of “government by the people”, and thus what entails in the “legitimacy” of public decisions, there is a close connection between legitimacy and justice (see Peter 2004).

First, a recent strand of analysis on the intersection of Sen’s work on capabilities with deliberative democracy (notably that of Crocker (2006)) requires examination, for it qualifies the approach of deliberative democracy to matters of justice. Having reviewed in
detail the importance of democracy, and a public discussion based definition of it in Sen’s approach, Crocker identifies key ideas in deliberative democracy thought that may help “enable Sen to develop an explicitly deliberative-democratic version of the capability approach” (Crocker 2006: 316). This line of analysis, while especially illuminating of the detailed workings of the deliberative process and the principles upon which deliberative democracy is based (especially as applied to practical problems), has consciously less to say about normative issues of justice.

The most relevant concerns to justice in Crocker’s review of deliberative democracy and capabilities, namely “enabling conditions” for deliberation and “fairness” in the deliberative process, either assume a pre-existing rough equality amongst the participants, or an equality that procedural rules, and more democracy over time, can best achieve. As especially regards enabling conditions, Crocker follows Richardson’s elaboration of “institutions needed to preserve the background justice of democratic deliberation” (Richardson 2002: 88): (1) equal political liberty; (2) equality before the law; (3) economic justice; and, (4) procedural fairness. All are of undoubted importance, but the elaboration of economic justice – here, Crocker cites Drèze and Sen (2002: 29) on how economic hardship reinforces political marginalisation – comes closest towards addressing the substantive concern with interconnected capabilities. Yet, even the requirement of economic justice as an enabling condition could be considered “unreasonably utopian” (Crocker 2006: 329, citing Deneulin). Crocker’s response in part follows Sen’s argument, namely that, “a country does not have to be deemed fit for democracy; rather it has to be become fit through democracy” (Sen 1999:4).

Two points of particular importance to the present enquiry derive from Crocker’s review of intersection between deliberative democracy and the capability approach. First, this strand in
deliberative democratic thought, like Sen, is cautious of asking too much of ideas of
democracy and theories of justice, preferring improved practice over time to better root
difficult-to-attain “background” conditions such as economic justice (and pointing to
empirical arguments to support this causality) rather than requiring anything a priori.
Secondly, especially given the preceding point, separating “equal political liberty” from
“economic justice” and similarly complex background conditions – and then possibly only
guaranteeing a priori the former in a narrow formal sense – holds the danger of skirting over
the integrated complexity of political capability for participation in public deliberation.xvii

Another strand of thinking in deliberative democracy addresses the concept of political
capability directly, and links it closely with requirements for legitimate democratic
outcomes. Starting with deliberative democracy’s concern that citizens be equal and their
reasons be given equal consideration, Bohman sees its proper criterion as being “equality of
effective social freedom, understood as equal capability for public functioning” (Bohman
1997:321-2; also Bohman 1996). Going beyond the usual standard for deliberative
democracy of ideal proceduralism, Bohman argues that such a criterion entails looking to
equality of opportunity: “all citizens must be able to develop those capacities that give them
effective access to the public sphere [and then] sufficient respect and recognition so as to be
able to influence decisions that affect them in a favourable direction” (Bohman 1997:323-4).
Knight and Johnson (1997) offer detailed suggestions as to the kinds of politically relevant
capabilities, emphasising three: the capacity to formulate authentic preferences, effective use
of cultural resources and, most important to the authors, basic cognitive abilities and skills.

Bohman recognises, like Stewart and Deneulin (2002), that paying attention to individual
agency alone, and not to group-based social agency, in the domain of political capability is
likely to be insufficient to protect against power and group-based inequalities. However,
limiting the freedom of others at group level appears a matter of degree suited to policy
guided by, but not consisting in the essential basic conditions of, justice. Bohman correctly
points out that effective individual political capability at least allows for meaningful
deliberation on this matter.

The suggestions of Bohman and Knight and Johnson may yet be insufficient. Beyond these
kinds, all capabilities *instrumental* to achieving equal political capability must also be
included in the basics of Sen’s theory of justice. A concern for actual lives led and the
interconnectedness of capabilities requires such comprehensive attention. With a reasoning
not dissimilar to Rawls’ prioritisation of the fair value of basic liberties, basic capabilities
such as life, health, bodily integrity, social and economic opportunity and cognitive skills
and abilities (etc.) are to be fairly guaranteed, judging fairness across dimensions that
include minimising differences in attainment shortfall, while paying particular attention to
the lesser shortfalls of the less capable as well as the efficiency demands of the whole
system (see Sen 1995). Sen’s ‘list’ may not be dissimilar to Nussbaum, but his justification
will arguably be more robust. It will flow from his earliest work on an ethical approach to
equality for an egalitarian liberal society. It will limit the freedom and choice of the
individual only for the sake of fair freedom and choice for all.

8. Challenges in using Political Capability as a basis for Social Justice

In articulating a theory of justice, Sen will clearly be in a bind: agency, choice and pluralism
will pull him towards underspecifying political capability and its correlates, but equality and
justice will pull him the other way. Is not yet clear, however, that a liberal theory of justice
based on capabilities is a “vain hope” (Deneulin 2003:142). Attention to the scope and
limits of a theory of justice based upon political capability may yet allow it to attain towards
each of its competing concerns. Much turns on what one demands that a “theory” of justice achieve for it to be complete and coherent.

Peter (2005) has recently reviewed the potential for political egalitarianism based on the capability approach in a critique of deliberative democracy. Peter identifies that the inclusion of a substantive criterion of political equality based on capabilities is liable to exclude far too much from democratic deliberation and thus undermine agency and dilute legitimacy: “It will specify conditions that depend on an extensive set of evaluations of the value of certain functionings and about the determinants of people’s capabilities. In the limit, the strong criterion of political equality demands that justice is fully realized prior to deliberation. If there is no consensus on what justice entails, this amounts to an undue limitation of the scope of deliberation” (Peter 2005:18).

Peter’s concern is well apprehended, but, focusing on the distinct (though related) question of legitimacy in deliberative democratic thought (and the requisite criterion of political equality for specific deliberations), it may not necessarily be applicable in the same way to the demands of a broader criterion of social justice. A social justice criterion may usefully identify what is guaranteed (here, a ‘list’ of capabilities intrinsic to and instrumental for political capability), why (according to what justified normative objective, here maximisation of capabilities for all individuals in a liberal and plural society) and how (according to what principles, here, including perhaps equality of attainment shortfall as well as society-wide ‘efficiency’), without necessarily specifying a priori exactly what will amount to justice ‘on the ground’.

Does this have, as Pogge (2002) denies to a capabilities-based approach, xviii the beginnings of something that could be a ‘workable standard of justice’? This question is beyond the scope of this article. However, it seems that one should caution against answering this
question only in the neat realms of theory. Basic constitutional guarantees (and objectives and principles) of justice based on capabilities can be meaningfully articulated and enshrined, and then subsequently deliberated, legislated and adjudicated; their specification, augmentation and realisation can still be overwhelmingly participatory but within bounds that themselves ensure overwhelming participation over time. To whatever extent some element of freedom and choice appears constrained by these core guarantees, the justification flows rightly from guaranteeing the very same participatory freedom and social choice capabilities fairly for all. Without being unduly over-specified, the aspiration in constitutional guarantees and their mode of operation can be strong and bold, pulling society up, at times by the collar, to meet its mark.

Even leaving aside for the moment the critiques of Peter and Pogge, something more is required of a theory or criterion of justice based on political capability if it is to adequately provide for the many cases of capability inequality that do not obviously have an instrumental relationship with political participation. One need only remember Sen and Nussbaum’s longstanding concern with disability and carers. Here, balancing over-specification with a respect for pluralism and democratic decision-making once again becomes central. Basic capabilities should already be guaranteed equally for all, but something beyond which has a sense of Sen’s appeal to fraternity, and Nussbaum’s emphasis on human dignity, would appear missing. Under the approach suggested in this article, it is not clear how this could form part of a public criterion for social justice capable of institutional safeguarding without being ‘imposed’. The capability approach at times places demands on our understanding of equality and sense of fairness that seem to defy the potential of liberal social institutions concerned above all with the individual and his or her freedom. A liberal society that has its core institutions guided by kindness and compassion,
not abstracted self-interest under a veil of ignorance, remains an enduring challenge in theory as well as in reality.

9. Conclusion

This article has analysed Amartya Sen’s capability approach, a theory in the liberal tradition with a rich conception of equality, and the roles of democracy and justice within it. Political participation and social choice are essential to the capability approach’s liberal foundations of agency and autonomy, as well as its respect for pluralism. This explains Sen’s reluctance to specify which capabilities matter more than others and why, or to expand in detail upon a theory of justice based on the capability approach. However, Sen’s strong egalitarianism is fundamentally undermined in the absence of some specification of justice because democracy, so critical to the mechanics of his approach, is liable to be deeply inegalitarian without adequate protections.

I have argued that it is indeed based on the prerequisite nature of political capability, and the requirements for equal opportunity of participation in social choice and public decision-making, understood in sufficient detail to fulfil Sen’s rich conceptualisation of fairness in the capability space, that Sen may with justification develop his theory of justice. Such a theory and criterion need not pronounce on the “blueprint” for “the just society” with a “highly delineated formula of relative weights” (see quotation at the outset of this article). It could conceivably protect pluralism, agency and choice precisely at the same time as requiring that society’s arrangements are judged against a core and abiding imperative, richly understood, of protecting every individual’s equality of opportunity to truly be and become an agent who informs choices in a plural society, choices which deeply affect their freedom. Nevertheless, it remains to be assessed whether such a political capability-based theory of justice can achieve its egalitarian concern for the actual lives led of individuals in
diverse circumstances, as well as retain its liberal imperatives, and then also provide a workable standard of justice.
Bibliography


The author thanks David Crocker (see Crocker 2006) for pointing out this important passage.

In 2005, for example, President Bush in his State of the Union address spoke of “the force of human freedom”, adding: “it is the policy of the United States to seek and support the growth of democratic movements and institutions in every nation … [as] freedom is the permanent hope of mankind” (Bush 2005).

Sen is working on two books that tie together over 25 years of scholarship on his capability approach. Freedom and Justice, the second volume of his collected essays on rationality, freedom and justice, is forthcoming, and a book on democracy has been promised (Sen made reference to this at the December 2004 International Disability Conference: Sen 2004).

Since 1990, the UNDP Human Development Report has included aggregative Human Development and Poverty Indexes. Sen’s capability approach is often considered to be the “background theoretical framework” for the report, which also built upon the concept of Basic Needs (see Stewart 1995; Stewart and Deneulin 2001; Deneulin 2003).

For a helpful summary, see Hacking (1996). Sen stresses that this is a supplement to other measures of equality.

The advantage of the capability approach over other broad approaches to development, such as Basic Needs, of having a strong philosophical foundation (Stewart and Deneulin 2002:62-4) is thus rendered practically weak for mandating standards, accountability and change.

Sen sees these essentials as empirically derived but from a normative theory standpoint, to take up Rawls’ test for elaborating his theory of justice, the list remains merely “intuitional” (Kymlicka 2002:53-4) and as such, not universally valid.

The Central Human Capabilities required for individuals to be “fully human” (Nussbaum 2000:87) and to flourish are offered as: Life; Bodily Health; Bodily Integrity; Senses, Imagination and Thought; Emotions; Practical Reason; Affiliation; Other Species; Play; Control Over One’s Environment. For Nussbaum, the list protects pluralism because it is open, revisable, intentionally abstract and a freestanding “partial moral conception” independent of specific metaphysical ideas (Nussbaum 2003:42).

Deneulin (2003), conversely, argues that Nussbaum puts too much emphasis on freedom and suggests a more substantive content of the ‘good life’ that a political community ought to be advancing, adjudged in the procedural space of decision-making. However, the fact of many different lists of capabilities (Saith 2001; Alkire and Black 1999; Robeyns 2003.a; Deneulin 2003) underscores the criticisms against Nussbaum.

See also Deneulin (2003:9-15) on the reasons for Sen’s reluctance to articulate a comprehensive conception of the good based on pluralism and individual freedom.
xi The quotation at the outset of this paper reinforces Sen’s stringent concern to avoid *a priori* rules that inhibit individual freedom.

xii A recent distinctive analysis of democracy in Sen’s thinking can be found in Crocker (2006). Crocker elaborates the central and required role that democracy plays in Sen’s elaboration of the capability approach, emphasising the aspects of agency and freedom (cf well-being and achievement) that democracy as participatory and deliberative public discussion enshrines.

xiii Banik has argued otherwise based on the case of the Kalahandi in Orissa, India: Banik (2002).

xiv Ian Hacking has more generously argued that Sen puts a lot of faith in some notion of fraternity (Hacking 1996).

xv Quoted also in Crocker (2006: 310).

xvi See especially: Crocker 2006; Bohman 1997; Knight & Johnson 1997; Richardson 2002; Peter 2004 and 2005; Deneulin 2003; Anderson 1999.

xvii Crocker shows some interest to consider this issue later in his chapter when considering “deliberator capacities and virtues”, citing the work of Bohman (discussed below) on requirements for political functioning (Crocker 2006: 342-44). Here, he criticises the danger in Richardson’s work of a reversion to realism in rejecting direct approaches to address extant differences between deliberators’ political capacities, a danger which he sees evident in Richardson’s failure to include educational institutions in his background conditions for deliberation.

xviii Pogge considers that capability egalitarianism is such that no plausible public criterion for social justice is practicably possible within its framework (Pogge 2002). Pogge emphasises that the more restrictive resourcist approach at least allows for clearer demands to be made on institutions for the reason that “resourcists deny, that a public criterion of social justice should take account of the individual rates at which persons … can convert resources into valuable functionings” (2002:1f).

xix The most contemporary work on these issues is that of Nussbaum. This article was written prior to her recent book, *The Frontiers of Freedom* (2006). It is at least arguable that a political capability based theory of justice should be augmented with a concern, based on core values of fraternity and human dignity, for the minimum guaranteed capabilities of disabled people and other specific groups inherently under-protected by a society motivated to prioritise individual agency and choice. Even in such a ‘hybrid’ theory and criterion for justice, the core of justice would remain rigorously tied to values of agency and pluralism.