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Children's Abilities, Freedom, and the Process of Capability-Formation

Nico Brando (Queen's University Belfast)

Abstract

When thinking about children's entitlements, priority tends to be given to protecting their well-being achievements, while limiting their entitlement to exercise freedoms and agency. An assumption of "inability" is used as the grounding justification for limiting children's freedom and agency. Using the capability approach (CA) as a method to conceptualise what is owed to individuals, this article intends to show that the justifiability of restricting freedom to 'unable' individuals is not as straightforward as assumed. Understanding the role that abilities play in justifiably limiting freedom requires an assessment of what being "(un)able" means, and how this "inability" may translate into particular privileges or restrictions. The article, thus, intends to give an answer to the following questions: first, how should the concept of 'ability' be understood within the CA? And, second, how does ability bind our understanding of the legitimate restriction of freedom and agency? The article offers a response to the first question through an evolving and dynamic understanding of 'ability'. It claims, moreover, that the process through which abilities develop (the process of capability-formation) ought to be taken into account when assessing what is owed to an individual as a matter of justice.

1. Introduction

When thinking about children's entitlements, priority tends to be given to protecting their well-being achievements, while limiting their entitlement to exercise freedoms and agency. The justifiability of this restriction of freedom during childhood derives from the intuitive claim that a person's (in)abilities play a structural role in assessing what is owed to them. While we are all endowed with a bundle of fundamental entitlements that are ensured to everyone based on our being part of the human species, many other entitlements are tied to our particular condition as vulnerable and dependent individuals, and to our (in)ability to exercise certain functions. Being especially vulnerable, dependent and 'unable' has been used as a justification for limiting individual freedoms in order to deter from harm that may be caused by the unable individual (both to herself and to others). Children are the typical example of how vulnerability and inability condition what we are owed. The tendency to see children as unable to make effective use of their freedoms and agency is used to justify the restriction of such freedoms and agency during childhood.

Within the capability approach, Amartya Sen endorses the above mentioned assumption about the 'inabilities' of children as agents, in order to justify the restriction of process freedoms and agency entitlements during childhood (Sen 2007). Based on recent literature on agency and freedom during childhood within the capability approach (i.e. Lessmann 2009; Ballet et al. 2011; Comim et al. 2011; Baraldi and Iervese 2012), this article shows that the justifiability of restricting freedom to 'unable' individuals is not as straightforward as assumed. Even if certain forms of freedom are conditioned by an individual's ability to exercise them, the article argues that the process through which abilities develop (the process of capability-formation), and the particular degree to which an individual can be considered as "able", demand a more nuanced account of how freedom should be understood, and the scopes of freedom which cannot be legitimately restricted to "unable" individuals.[1]

Understanding the role that abilities play in justifiably limiting freedom requires an assessment of what being "(un)able" means, and how this "inability" may translate into particular privileges or restrictions. The article, thus, intends to give an answer to the following questions: first, how should the concept of 'ability' be understood within the CA? And, second, how does ability bind our understanding of the legitimate restriction of freedom and agency? The article responds to the first question through an evolving and dynamic understanding of 'ability'. It claims, moreover, that the process through which abilities develop (the process of capability-formation) ought to be taken into account when assessing what is owed to an individual as a matter of justice. While conceding to certain limitations to the freedoms that children may be allowed to exercise due to inabilities, I will argue that there is a larger role for freedom in our discussions on children's entitlements due to the active role that children play in their own development process, and in the construction of their own life and identity.

Section 2 reviews the assumed conflict and tension between protecting different aspects of freedom (as opportunity and process) in Sen's capability theory, and how this affects children's entitlements. Section 3 shows the limitations of Sen's account, presenting a typology of different forms of 'ability', the process through which they are formed (the process of capability-formation), and how this demands a revision of the assumed tension in children's entitlements. Section 4 explores the two core conditions that structure the process

1 The article looks exclusively at how a re-evaluation of the concept of 'ability' affects the way we understand the entitlements and freedoms that are owed to *children*. Although I believe that the argument works as well for re-examining the entitlements of other groups of individuals (for example individuals with disabilities), due to space constraints I do not address them here.

of capability-formation, namely, conversion factors and scaffolding freedoms. Section 5 concludes, considering how the process of capability-formation (and its two conditional pegs) demands a more dynamic understanding of children's entitlements.

2. Sen on Freedom during Childhood

A core tenant of Amartya Sen's capability theory is to protect and promote the freedoms that allow individuals to function as they have reason to value (Sen 1999). It aims to ensure an ample space for the individual to make self-determining decisions about what she considers valuable, and how to lead her life. Protecting freedom is, in short, a structural commitment of Sen's theory of justice (Sen 2009). However, the fact that an individual's valued states of being and doing may be beyond her scope of action and/or ability, obliges us to assess whether it is the opportunity or the process aspect of freedom what is of utmost concern.[2]

In Sen's work, freedom is deemed valuable both because it provides us with the "*opportunity* to achieve those things we value" by enlarging our ability to achieve what we value; and freedom is valuable because of the *process* through which these opportunities and achievements arise (that is, through an individual making self-determining choices for herself) (Sen 2002: 585). Even though both the opportunity and process aspects are of value, if freedom as a process does not promote an expansion of the valuable opportunities available to the individual, then it may be asked if the opportunities and achievements may need to be prioritised over the process (see Sen 2002: Ch. 20). This implies that the opportunity aspect of freedom may, in certain cases, take priority over the process through which valuable opportunities are ensured. For Sen, children are a good example of when the opportunity aspect can have predominance over the process aspect of freedom:

> Insofar as the process aspect of freedom demands that a person should be making his or her own choice, that aspect of freedom is not particularly relevant to the human rights of children, except in some rather minimal ways (such as a child's freedom -and perhaps right- to get attention when it decides to scream the house down). But the opportunity aspect of freedom is immensely important for children. What opportunities children have today and will have tomorrow […] is a matter of public policy and social programmes. (Sen 2007: 10).

Although we are, in principle, concerned with ensuring the process of freedom to individuals, the fact that children, from a larger to a lesser extent depending on their developmental

2 I thank an anonymous reviewer for pressing me to explore further the tension between the process and the opportunity aspects of freedom.

condition, cannot exercise freedom without unduly harming themselves, thus potentially harming their opportunity-sets in the present and future, begs the question as to what value, if any, does the process aspect of freedom (and agency) have in cases where it does not expand (and may even contract) the opportunity-sets of an individual (Sen 1985: 204).

For Sen, children do not only *not* have an interest in exercising the process of freedom and agency, but even the *existence* of freedom and agency during childhood is put into question (Sen 2007: 9-10). Agency in particular and freedoms in general require, for Sen, the ability and the intention to exercise them; if no ability nor intention are in place, there is no interest in having these claims protected. Sen gives two reasons for why children ought to be ensured freedom as opportunity rather than as process: first, because they are unable to rationally and consciously exercise agency; and second, because the child's possibility of exercising freedom and agency is preconditioned by the existence of certain basic achievements (say, being nourished, or physically, mentally and emotionally healthy) which should take priority (Sen 2007: 9).

In a sense, Sen's understanding of the entitlements of childhood implies that the CA would "provide children with opportunities [in the sense of secured achievements] without allowing any meaningful form of choice" (Ballet et al. 2011: 25-26). For example, a child cannot be allowed to exercise choice over whether or not to eat ice-cream as her dinner meal because allowing her to exercise this freedom can have negative implications on her opportunity to achieve valuable functionings later on. If a child is allowed to choose whether to attend school or not, this could lead to the child not acquiring basic competences, such as reading and writing, which are preconditions for having the opportunity to find a job, to be politically informed, and many others (see also Purdy 1992; Brighouse 2002). An expansion of the scope of process freedom allowed, in this respect, does not necessarily entail an expansion of options and opportunities, it may actually have the contrary effect; that of closing many doors that would otherwise be open (Sen 1992: 62-64). As Saito claims (2003), Sen's account of freedom during childhood implies that it is their future freedom which is accounted for, not their present one (2003: 26). Choices have costs, and having the right to choose ought to entail an ability to understand the costs and consequences that derive from these choices (Sen 1992: 59).

Much of the weight of the argument for focusing on the opportunity aspect of freedom when thinking about children rather than on their agency and the process aspect stands on the claim that children have certain fundamental *inabilities* which limit the scope of freedoms they can effectively exercise without harming their own interests. Although, up to a certain

point, inability to exercise a function may legitimise its restriction (Hart and Brando 2018), a re-evaluation of what 'ability' means, and how it relates to the assumed tension between the process and opportunity aspects of freedom during childhood is necessary in order to provide a more nuanced understanding of the interests that 'unable' individuals may have in exercising their agency and freedom. Of course, a tension and trade-off are inevitable when evaluating children's interests. However, this article intends to show, contrary to Sen, that the relation between children's opportunity and process freedoms is not necessarily oppositional but can be, rather, complementary. Not only do children's ability and willingness to exercise freedoms and agency vary widely due to environmental conditions, or based on their particular stage of development; moreover, a child's process and opportunity aspects of freedom may, actually, complement if the appropriate external conditions and supports are in place.

3. Three Forms of Ability: Capacity, Competence and Capability

It is a standard practice in philosophy, especially when dealing with questions of childhood, to consider two different forms in which a person's agency (understood as the ability to make choices for oneself in a self-determining way, and realise them) may exist: as potential agency in the process of development or as acquired agency (Griffin 2002; Arneson 2014). John Rawls (2001), for example, argued that a basic characteristic of what is to be human is having the capacity for a sense of justice and a capacity for developing a conception of the good. These latent endowments that all humans possess from birth are distinguished in Rawls' account from an individual who has the capacities for a sense of justice and for a conception of the good actually developed, realised and exercisable (Rawls 2001: 19). This same intuition grounds Sen's restriction of children's freedom and agency claims (2007): he takes the agency endowments of human beings as existing either in a latent form or as actually realised and exercisable. A child is one who has the latent potential for agency but who is still unable to exercise it; an adult, on the other hand, is one who is endowed with agency and is able to exercise it. The process aspect of freedom, in this respect, is conditioned by an individual's developed ability to exercise agency, implying that it is legitimate to limit freedom for those who are not full agents.

It seems reasonable to argue that if a certain freedom requires an ability to exercise it (meaning that an ability is required for the freedom to not cause grave harms to oneself or to others), it may be justified to ensure that only "able" individuals are allowed to exercise the

given freedom. However, the process through which a latent ability becomes a realised ability is not a blanket affair, and most approaches that deal with this boundary between being "able" and "unable" do not offer a clear answer to how they conceive this process taking place (Gasper 2002: 446-447; Crocker 2008: 171). The process of development through which latency becomes achievement is not based on a dichotomy (Alderson and Goodwin 1993). How do we pass from a latent endowment to the actual capacity to exercise it? This is a particularly important question to address in the case of children whose developmental condition implies that they are in a constant evolving state (Lansdown 2005; Ballet et al. 2011: 34; Schweiger and Graf 2015: 29-37). Children's abilities must be understood as inherently dynamic and adaptive; it is this process of adaption and development which should be accounted for.[3]

Some simple examples. A four-year-old child clearly has the latent capacity to read; this does not mean, however, that she is able to do so. She may have the cognitive and reasoning endowments required for developing reading skills, but if she does not have contact with written material, if she is not taught the basic procedures that allow her to transform visual icons into sounds and concepts, the child's potential capacity to read will not grow out of its latent condition. This applies to all ages and stages of life. In my present circumstances, I have a latent capacity to surf, while the actual skills required to be able to exercise this capacity are not in place: I do not live nor spend long-enough times by the sea, I do not own a surfboard, I have never been motivated to pursue surf as a hobby, and I do not know what I must do if I find myself in the water with a surfboard. To understand how these latent capacities can become actually exercisable, one must look at the process through which potentialities become realised: t*he process of capability-formation*.[4]

The concept of 'ability' ought to be deconstructed in order to show the process through which an "unable" person becomes "able" to exercise a certain function. Returning to the vocabulary developed by capability theorists, what we have in front of us is the process through which biological latent endowments can become functionings through the existence of capabilities to function (Crocker 2008: 174). That is, an 'ability' is more than simply an internal power; it implies having the appropriate conditions, and developing the skills and

3 See for example Sadlowski (2010) defending the development of capabilities as the foundational claim of justice for children. See Peleg (2013) for a similar claim standing on a rights-based discourse.

4 Mhairi Cowden offers an account of children's process of ability-formation, while not relying on the capability approach but on a Hohfeldian account of right holding. See Cowden (2016: Ch. 4)

behavioural inclinations which allow one to exercise a given function.[5]

Martha Nussbaum (1999; 2000) was one of the first within the CA to offer an account of the different forms in which one might be considered as "able" through her distinction among three types of capabilities. The first form in which one can be considered as 'able' is by having *basic capabilities*, which comprise all the innate equipment and latent powers that are required to exercise a certain function. Since birth, we are endowed with the sight and sound-making skills required for most human actions (such as reading, or speaking a language); we are also endowed with the basic capability for reasoning and social interaction. But the existence of basic capabilities does not ensure that one is actually able to read, to speak a language, or to rationalise in any meaningful way, if one does not develop and transform these innate potentials into *internal capabilities*. Internal capabilities encompass the mature acquisition of certain basic functions which ground a person's ability to do and to be; one is "able" at the level of internal capabilities if one has the aggregation of all the elements internal to the person which are required for her to function in a certain way. Not only can I see, but I have the internal capability to understand the meaning of symbolic language, allowing me to transform sounds and images into words and concepts, thus, being internally capable of reading. Nussbaum's last form of 'ability' is *combined capabilities.* Although the possession of internal capabilities ensures that an individual has everything she requires within herself to exercise a function, combined capabilities emphasise the *external conditions and supports* required for this function to be meaningfully exercisable: I may be internally capable of reading but if I do not have access to any written material, or if I am not allowed to read by my legal or social system, then I do not have a combined capability to read (Nussbaum 1999: 44; 2000: 84-85).

For terminological clarity, I wish to leave aside Nussbaum's terminology for labelling different forms of capability, and distinguish levels of ability between capacities, competences, and capabilities to function.[6] A *capacity* includes all the basic endowments, innate material and latent potentials that allow us to exercise a function. What distinguishes, for example, between a toddler and turtle's ability to speak Catalan is that the toddler has the

5 On the importance of aspirations in this process, see Hart (2016).

6 Alternative terminologies exist in the literature for conceptualising the different level of ability. See, for example, Dowding (2006) or Cowden (2012, 2016). I do not take 'capacity' in its more moralised definitions within the philosophical literature (i.e. Ricoeur 2005; 2006); I follow its definition within the psychological literature, understood as "the potential to accomplish a particular physical, intellectual, or creative task" (Pam 2013).

capacity to speak Catalan, while the turtle does not (Cowden 2016: 41-42). The toddler's capacity to speak, opposed to the turtle's incapacity, is the first form in which a being may have a fundamental interest in having a certain agency interests protected. Beyond capacities, a *competence* implies the existence of matured skills, be they physical, mental or emotional, required to exercise a function. Being competent implies that, if allowed to exercise a function, one would succeed (Cowden 2016: 43).[7] The capacitated toddler and a Catalan native speaker, in this sense, are distinguished by the latter's competence to speak Catalan opposed to the former's mere capacity to do so. Acquired competence, in this sense, may transform the particular ways in which the competent individual's interests should be protected as rights.

But there is still a final distinction. An individual can be a competent Catalan speaker but may have this freedom restricted due to external constraints (think of Catalan speakers under the Franco regime who were forbidden to publicly use their language). This is what the term *capability* intends to portray. A capability encompasses both the acquired competences and the external conditions required to be substantially free to exercise one's competences. To summarise:

(i) Capacity: the counterfactual ability to function; one is in possession of all the fundamental cognitive, physical and emotional endowments required to exercise a certain freedom; i.e. I have all the internal endowments required to surf waves.

(ii) Competence: the possession and actual realisation of all the latent capacities required to function; i.e. I have learned the equilibrium and swimming skills required to use a surfboard in the water.

(iii) Capability: the substantial freedom to exercise a certain function; understood as the possession of the required competences, and the existence of the external conditions required to function. Following Sen, I consider 'freedom' as analogous to capability (Sen 1999);[8] being free to do X implies having ensured all internal and external conditions required to be able to do X; i.e. I have the capacity and competence to surf, and I also have

7 For a thorough analysis of the distinction between capacity and competence, see Cowden (2012; 2016: Ch. 4).

8 This is in the same line of Schmidt's (2016) Ability view of freedom, in which "To be able to J […] implies having both the internal ability (physical, cognitive, etc.) and the external resources and opportunities (absence of external restraint, monetary resources, etc.) to J. Being able to J is considered both a necessary and sufficient condition for being free to J." (Schmidt 2016: 187).

access to a surfboard, to the sea, and I am allowed by my legal and social system to freely exercise this function.

Ensuring that people are capable of doing and being what they consider valuable by having ensured the internal and external conditions required to achieve this is an appropriate objective to which justice should aim. But the fact that capabilities depend on the protection and promotion of both the latent capacities and the acquisition of competences demands looking at the particular interests that may be involved in being "able" at different stages in the process of capability-formation. Ensuring capabilities is preconditioned by protecting the process through which they are formed. We must take this temporal and developmental factor in the process of capability-formation in order to assess the entitlements tied to each individual's position (Lessmann 2009: 454). The following section explores the process of capability-formation, and introduces the conditions that must be in place for this process to move forward. Of particular importance are conversion factors and scaffolding freedoms, which allow capacities to turn into competences, and the latter into capabilities.

4. The Process of Capability-Formation

In order to achieve a functioning through one's own exercise of freedom, one must convert one's latent capacities into acquired competences, and the latter into capabilities (see **Figure 1**).[9] This implies that any discussion about the freedom and agency entitlements owed to an individual has to account for the conditions that allow this freedom to exist, and the process through which it can be exercised (as a capability). Two elements frame the development process from capacity to competence to capability: first, the *conversion factors* that sustain and support the process; and, second, the *scaffolding freedoms* in the zones of proximal development (ZPD) which fuel the transition between levels of abilities in the capability-formation process.

9 There is another factor that conditions the achievement of a functioning, which is not tied to the development of abilities (in the strict sense), but rather linked to the person's character. It comprises the motivational features needed to achieve a function (i.e. willingness, aspirations, motivation). See on aspirations Hart (2013; 2016); on motivation and development see Deci et al. (1991). To a large extent, motivational features are tied to innate characteristics - the personality and genetic traits of the individual. There is abundant psychological evidence on the role that genetic endowments play in framing the character, overall personality traits of an individual and how this may condition her achievement vector. See Pinker (2002: 372-378).

[INSERT **FIGURE 1** NEAR HERE. Caption: Figure 1. The Process of Capability-Formation]

4.1. Conversion Factors

Capability-formation is an environmentally conditioned process; it is enabled and fostered through conversion factors. Not only are we all framed within a social world which embeds our abilities in our social environment, but the particular dependencies of vulnerable individuals make the external conditions in which the development process takes place of structural importance. Conversion factors can be defined as the necessary instrumental pegs that allow a person's internal endowments to be transformed into capabilities through the existence of the appropriate external conditions. It is not only the internal resources of an individual, nor the external conditions alone what fuel the capability-formation process; it is the particular interaction between the individual and the external world which determines how this process evolves (Wolff and de-Shalit 2007: 173).

The developmental process of the human being is not purely determined by her innate endowments, nor uniquely controlled by her social environment. Rather, its evolution is determined by three variables: first, the natural dispositions of the individual; second, the environmental conditions in which the individual is embedded; and third, the interaction between the *specific* character and disposition of the individual and the *specific* environment in which she is embedded (see Schaffer 1996: 390-395; Moshman 2011). Conversion factors, in this respect, are tools that synchronise the environmental and internal conditions, allowing the sustainment and expansion of an individual's capability sets.

Conversion factors range from the most basic environmental requirements for survival (such as the existence of water, food or oxygen) that keep us alive, up to social conditions, provisions and support of various kinds (infrastructure, education, social norms, power relations, customs, institutional arrangements, rights, etc.) (see Gasper 2002; Lessmann et al. 2011; Robeyns 2006; 2017: 45-47). Conversion factors trigger capability-formation in two ways: first, by providing the resources and external conditions that allow *the conversion of capacities into competences*, that is, ensuring internal conversion of latent abilities into their realisation through the acquisition of the necessary skills and behaviours (physical, mental and emotional); and, second, by ensuring *the external conditions that allow competences to convert into capabilities*. To exercise a capability, one requires legal protection, access to infrastructure and resources, and a social environment that enables its exercise, among many

others (Biggeri and Santi 2012: 378-380).

Take, as an example, the role of conversion factors for an individual's ability to read: conversion factors are required both to transform a person's capacity to read into a competence (through education, socialisation, protection of cognitive capacities, etc.), and they are required for converting the competence into a capability or freedom (through its promotion, accessibility of reading materials, right to freedom of thought, expression, access to information, etc.). Without conversion factors the capability-formation process is unachievable: not only is an individual's transformation of her latent capacity to read into an actual competence conditioned by many conversion factors, but, very importantly, conversion factors are structural to a person's transformation of competence into actually exercisable capabilities and freedoms. Think of a society as Margaret Atwood's Gilead in *The Handmaid's Tale* (1986): we find here a whole country of women who do not have their capacities thwarted and who have acquired all the competences required for reading, but who live in a socio-political environment in which reading is forbidden to them (it is not only frowned upon, but it is prohibited by law); these women have the competence to read but are not ensured the conversion factors required for turning these competences into capabilities and actual freedoms.

The conditionality of an individual's capability sets on conversion factors that sustain, promote and enable the transformation of capacity to competence, and of competence to capability shows how protecting an individual's fundamental interests can vary greatly *at different stages of ability*. An individual could have her interests harmed by not being provided with the conversion factors required to maintain her capacities, to develop competences or to have access to capabilities.

A fundamental element to note when assessing the fundamental interests that come with differing degrees of ability, and the required conversion factors to fulfil these interests, is that the particular condition of an individual imposes a dynamism to the conversion factors required. The core critique posed by Amartya Sen to utilitarian thought and to resourcist measures of equality (such as Rawls' or Dworkin's) is that the ability of differently-positioned individuals to convert external resources into competences and capabilities varies depending on their particular vulnerabilities, dependencies and social needs (Sen 1992: Ch. 5; 2009: Ch. 12). The same external conditions that make the streets safe to walk for an adult may not be sufficient to ensure that children and certain disabled individuals can safely exercise the same function of walking. Many external conditions that are assumed as fundamental for adults to be able to convert competences into capabilities (say, for example,

monetary resources) may be absolutely or almost absolutely useless for a young child. This means that, when assessing the way conversion factors protect and enable the fundamental interests of differently-positioned individuals, we must understand the plurality of ways in which social conditions may affect these individuals with particular inabilities and vulnerabilities (be it due to gender differences, socioeconomic status, or cognitive and physical inabilities); and, how the social and institutional context influences the overall enabling (or restricting) of conversion (through entrenched freedoms or rights and securities, for example) (Robeyns 2005: 99; Comim et al. 2011: 8-9).

In other words, the capability-formation process requires taking into account the particular characteristics of the individual, and understanding how this frames the selection of the appropriate conversion factors which allow capabilities to develop (Clark and Ziegler 2014: 217). The social conditions in which an individual is embedded are structural to what is owed to her: neither can she develop in a social vacuum, nor can a one-size-fits-all mechanism ensure that the varied requirements of differently-positioned individuals are met (Comim et al. 2011: 8). An equilibrium must be found in order for her to ensure actual conversion of external provisions and protections into competences and capabilities (Baraldi and Iervese 2014: 48; Biggeri and Santi 2012).

4.2. Proximal Development and Scaffolding Freedoms

The pedagogue and cognitive-psychologist Lev Vygotsky (1978) introduced the concept of ‘zones of proximal development’ to refer to the intermediate stages in the process of ability-formation during childhood. According to Vygotsky, our learning abilities, and the development process from capacities to competences to capabilities is not an achieved/not-achieved situation, but is rather dependent on what happens during *the transition periods* between one level of ability and another (See ZPDs in **Figure 1**, above). Our ability to move to greater functions and to form more advanced competences and capabilities requires being positioned in situations in which we still do not have the full ability to exercise a function but in which we are given the freedom to exercise it with the support of others (Vygotsky 1978: 85-86, see Ch. 6).

John Dewey’s account of ‘experience’ provides a useful theoretical insight into why ZPDs are of such importance to the process of capability-formation.[10] In his educational theory,

10 It must be noted that the concept of 'experience' in Dewey diverges somewhat in his work on aesthetics (i.e. *Art as Experience*) and in his work on educational theory (i.e. *Experience and Education*). In his aesthetics

Dewey considers the value of "experience" as rooted in the dual principles of continuity and interaction (1938: Ch. 3). Continuity denotes the temporal interaction between what the child already knows, what she is learning, and how this frames what she can experience and learn later on (1938: 35-37). Interaction, on the other hand, denotes the dependency of a child's educational experience on her surrounding context (1938: 43-45).

Dewey's conception of 'experience' in education highlights how having spaces of freedom (when not fully able to exercise freedom) is fundamental for the development process to take place (see Dewey 1938). Confronting "unable" individuals with their own inabilities, and allowing them to interact with the limits of what they can do through their own active engagement in their learning and development processes fosters higher achievements, and the growth of more mature competences (Dewey 1920: Ch. 4; 1938: Ch. 3). Dewey considers that this applies to all types of competences and capabilities. Only through the actual experience of exercising freedom (be it for learning how to ride a bike, or for more complex agency freedoms such as deliberating between right and wrong, choosing a career path, etc.) can the ability to exercise them develop (Dewey 1897: 108). Development and learning can be best enhanced by leaving a choice space for the an individual to experience freedoms that she is still not fully "able" to exercise, and by enabling her continuous active participation in her own capability-formation process. Freedom, in this respect, would not only be an end-goal of exclusive access to those fully able to exercise it; rather, freedom is one of the fundamental pegs which enable and foster the capability-formation for an individual. Following Dewey, an individual cannot have the "mental attitude" required for being free if she is not allowed a space of "movement in exploration, experimentation, application" of her inabilities and lacks (Dewey 1920: 357). As Lessmann notes (2009: 454-457), Dewey's philosophy of education grounded on the value of "experience" can play an important role in exemplifying the dynamic and evolving state in which the process of capability-formation takes place.

In the pedagogical world, this is what Jerome Bruner labelled as "scaffolding" (Bruner

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Dewey develops a more phenomenological approximation to the concept, reflecting on the distinction between the sequential acquisition of experiences in day-to-day life from having *an* experience, such as those in aesthetic perception, which have a disruptive and conclusive effect on the individual (see Dewey 1934: Ch. 3, esp.35-46). As is explained in the following paragraphs, 'experience' in his educational theory, although not contrary, utilises the concept with a focus on its pedagogical implications as a way to emphasise the value of interaction and continuity in educational settings (see Dewey 1938: 25-31). I thank an anonymous reviewer for asking me to clarify my use of the term.

1960; Wood et al. 1976; Ninio and Bruner 1978). Bruner showed through his studies on the acquisition of language skills that locating individuals in situations and tasks that are beyond their present level of ability fosters their engagement with the task at hand, enabling learning through their confrontation with previously non-encountered problems (Wood et al. 1976). By confronting their inabilities and learning from them through their own experience of freedom, children, especially, can develop much more stable abilities to act as agents (Bruner 1960: 33). Experiencing freedoms during the stages of proximal development, thus, entails the permissibility and necessity of allowing individuals to overcome their inabilities through their own experience of freedom to try, to risk, to fail and to achieve (Hart and Brando 2018: 298-302).

As to our concern with understanding the tension between protecting the opportunity or the process aspects of freedom for "unable" individuals such as children, we must understand the relationship between what an individual is able to do, what an individual is free to do, and the zones of proximal development in which scaffolding freedoms should be enabled. Inability to exercise a function is not a sufficient condition to justify the restriction of the freedom tied to that function, due to two reasons.

First, it may be legitimate to allow an individual to experience freedom (even if unable) due to the intrinsic value that freedom (as a process) has for the child as a fundamental interest. We have an interest in being free and in choosing how our lives develop. Choosing our own path, making mistakes and taking risks with our achievements (if we so desire) is a cornerstone of a what being endowed with freedom entails. We must be allowed and enabled to construct ourselves and our identity, rather than having an externally imposed account of who we should be and what we should value. Even if, intuitively, our concern with freedom during childhood tends to focus on its opportunity aspect (understanding freedom as an expansion of a child's ability to achieve beings and doings which we have reason to value; Sen 2002: 585-586), the process through which this comes about (the agency aspect in Sen's terminology) cannot be dismissed.

Various capability scholars have attempted to amend Sen's strict denial of any agency endowments during childhood, proposing a more nuanced and dynamic understanding of how children's valued interests evolve and change through time and developmental stages (i.e. Lessmann 2009; Ballet et al. 2011; Liebel 2014; among many others). Ballet et al. (2011), for example, have endorsed the idea of understanding children's claims through the notion of "evolving capabilities": the development process through which children pass implies that we cannot consider their entitlements and freedoms as static, but rather dependent and adapted to

their developmental stage (Ballet et al. 2011: 34); it is not that children do not have agency claims, rather, children do have agency claims appropriate to their particular condition, to their particular capacity endowment and their particular acquisition of competences. It is important to acknowledge the degreed existence of agency interests and values during childhood, and this degreed agency must be respected through the recognition of their interest in exercising freedom within a reasonable scope (Ballet et al. 2011: 22, 37)

Second, even if one remains sceptical on whether the process aspect of freedom is intrinsically valuable during childhood (due to its potential conflict with the child's opportunity-sets), there is an important instrumental reason for promoting the experiencing of freedom (as a function) during childhood: its necessity for the process of capability-formation to take place. The process of capability-formation requires the exercise of freedom prior to achieving competence, in order for it to move forward. Spaces of freedom (scaffolding freedoms) are instrumentally necessary for the individual to become competent in its exercise. Paradoxically one could consider that the achievement of exercising freedom is a necessary condition for the capability to exercise a certain function to develop. If one does not provide choice spaces to children, in which they can experience and exercise freedom as a function, it will be impossible for mature competences to develop. One, in a sense, cannot learn to be free and to act as an agent in one's own life if not given the space to be free and to be an agent in one's own life (Ballet et al. 2011: 28). If I never take the training wheels off my bicycle, I will never acquire the competence to ride it. I need to fall, I need to scrape my knees, and I need to fall again in order to learn how to ride. It is my own experiencing of my own limitations, my potentiality and my abilities what allows me to develop the agency required to take control over my life in the long run.

5. A Plea in Favour of Dynamism

Following once again Amartya Sen (1985; 1992), the goal of justice should lie on ensuring fundamental capabilities to individuals; that is, it should be concerned with guaranteeing that people have and develop the substantial freedoms which allow them to choose which functions to achieve and how to do so. If the end goal is ensuring capabilities, then we must understand, first, what is required for an individual to develop capabilities, and, second, the claims that derive from being positioned at a particular stage of the capability-formation process.

Dynamism, in this respect, is especially important when evaluating children’s

fundamental interests by taking into account their condition as developing beings. An individual's abilities are not fixed or static, but rather evolve through particular experiences, social interactions and physical, mental and emotional development (Lansdown 2005: 15), passing through different stages which require a particular external response in order to allow it to move onwards. This emphasis on the dynamism inherent in the process of capability-formation entails the need to go beyond an assumption of blanket ability or inability of individuals to be able to take control over their choices and act as agents in their own life. The process of capability-formation demands accounting for the variability in the human condition: children (and all humans for that matter) are neither fully unable, nor fully able; fluctuation in abilities, agency and vulnerability is a great part of what their condition is grounded on, and a system of justice must be able to take this variability into account (Ballet et al. 2011; Comim et al. 2011). In short: the fact of being or not a child is not a sufficient condition for justifying the restriction of freedom; it is your particular position in the process of capability-formation (regardless of age or any other factor), which frames and determines the way you ought to be treated.

Exploring the fundamental elements in the process of capability-formation attempts to highlight the role played by dynamism in our assessment of what is owed to an individual. Opposed to the general assumption that 'ability' is a black-and-white affair, accounting for the process and stages through which individuals pass in order to form capabilities provides an evaluative framework that is more sensitive to individual variability, and to how this variability should delimit which protections, freedoms and limitations can be justifiably imposed.

This article showed that what we understand by 'ability' and consequently by children's 'inability' must be deconstructed in order to highlight the potential claims that arise from the development process of capabilities. Being able to exercise a freedom, our ability to understand the risks, stakes and consequences involved in taking control over our choices, is not a blanket affair, but rather a matter of degree (Crocker 2008:178). Reaching a stage of competence or capability that makes me able to make the most effective and beneficial use of my freedom is a gradual process conditioned not only by the external resources and supports, but by the individual's own internal resources, characteristics and available opportunities. Ability to exercise freedoms cannot come from an environment devoid of opportunities to exercise it, and certain forms of freedom may be required, even in the case of "unable" persons, in order for the full ability to develop later on.

References

Alderson, P. and Goodwin, M. (1993). 'Contradictions within concepts of children's competence.' *International Journal of Children's Rights* 1: 303-313.

Arneson, R. (2014). 'Basic Equality: Neither Acceptable or Rejectable.' In U. Steinhoff (ed.) *Do All Persons Have Equal Moral Worth?: On 'Basic Equality' and Equal Respect and Concern.* Oxford: Oxford University Press.

Atwood, M. (1996 [1986]). *The Handmaid's Tale.* London: Vintage Publishers.

Ballet, J., Biggeri, M. and F. Comim (2011). 'Children's Agency and the Capability Approach: A Conceptual Framework.' In M. Biggeri, J. Ballet and F. Comim (eds.) *Children and the Capability Approach.* Houndmills: Palgrave Macmillan.

Baraldi, C. and Iervese, V. (2014). 'Observing Children's Capabilities as Agency.' In D. Stoecklin and J-M. Bonvin (eds.) *Children's Rights and the Capability Approach.* Dordrecht: Springer.

Biggeri, M. and Santi, M. (2012). 'The Missing Dimensions of Children's Well-being and Well-becoming in Education Systems: Capabilities and Philosophy for Children.' *Journal of Human Development and Capabilities* 13 (3): 373-395.

Brighouse, H. (2002). 'What Rights (If Any) Do Children Have?' In D. Archard and C.M. Macleod (eds.) *The Moral and Political Status of Children*. Oxford: Oxford University Press.

Bruner, J. S. (1960). *The Process of education*. Cambridge, MA: Harvard University Press.

Clark, Z. and Ziegler, H. (2014). 'The UN Children's Rights Convention and the Capabilities Approach – Family Duties and Children's Rights in Tension.' In D. Stoecklin and J-M. Bonvin (eds.) *Children's Rights and the Capability Approach.* Dordrecht: Springer.

Comim, F., Ballet, J., Biggeri, M. and Ieverse, V. (2011). 'Introduction – Theoretical Foundations and the Book's Roadmap.' In M. Biggeri, J. Ballet, and F. Comim (eds.) *Children and the Capability Approach.* Houndmills: Palgrave Macmillan.

Cowden, M. (2012). 'Capacity, claims and children's rights.' *Contemporary Political Theory* 11 (4): 362-80.

Cowden, M. (2016). *Children's Rights. From Philosophy to Public Policy.* Houndmills, UK: Palgrave Macmillan.

Crocker, D.A. (2008). *Ethics of Global Development. Agency, Capability, and Deliberative Democracy.* Cambridge: Cambridge University Press.

Deci, E.L., Vallerand, R.J., Pelletier, L.G. and Ryan, R.M. (1991). 'Motivation and

Education: The Self-Determination Perspective.' *Educational Psychologist* 26 (3/4): 325-346.

Dewey, J. ([1897] 1993). 'Ethical Principles Underlying Education.' In D. Morris and I. Shapiro (eds.) *John Dewey. The Political Writings.* Indianapolis: Hackett Publishing.

Dewey, J. (1920). *Democracy and Education.* New York: The MacMillan Company.

Dewey, J. ([1934] 1980). *Art as Experience*. New York: Perigee Printing.

Dewey, J. ([1938] 1997). *Experience and Education.* Kappa Delta Pi Lectures. New York: Touchstone Publishing.

Dowding, K. (2006). 'Can Capabilities Reconcile Freedom and Equality?' *Journal of Political Philosophy* 14 (3): 323-336.

Gasper, D. (2002). 'Is Sen's Capability Approach an Adequate Basis for Considering Human Development?' *Review of Political Economy* 14 (4): 435-461.

Griffin, J. (2002). 'Do Children Have Rights?' In D. Archard and C.M. Macleod (eds.) *The Moral and Political Status of Children*. Oxford: Oxford University Press.

Hart, C.S. (2013). *Aspirations, education and social justice – Applying Sen and Bourdieu*. London: Bloomsbury.

Hart, C.S. (2016). 'How do aspirations matter?' *Journal of Human Development and Capabilities,* 17: 324-341.

Hart, C.S. and Brando, N. (2018). 'A Capability Approach to Children's Well-Being, Agency and Participatory Rights in Education.' *European Journal of Education* 53 (3): 293-309.

Lansdown, G. (2005). *The Evolving Capacities of the Child.* Florence: UNICED Innocenti Research Centre/ Save the Children.

Lessmann, O. (2009). 'Capability and Learning to Choose.' *Studies in Philosophy and Education* 28: 499-460.

Lessmann, O., Otto, H.-U., & Ziegler, H. (2011). 'Closing the capability gap and renewing social criticism.' In O. Lessmann, H-U, Otto and H. Ziegler (eds.) *Closing the capabilities gap*. Opladen: Barbara Budrich.

Liebel, M. (2014). 'From Evolving Capacities to Evolving Capabilities: Contextualizing Children's Rights.' In D. Stoecklin and J-M. Bonvin (eds.) *Children's Rights and the Capability Approach.* Dordrecht: Springer.

Moshman, D. (2011). 'A kinder, gentler nativism?' *Journal of Applied Development Psychology* 32: 44-45.

Ninio, A. and Bruner, J. (1978). 'The achievement and antecedents of labelling'. *Journal of Child Language,* 5: 1–15.

Nussbaum, M. (1999). *Sex and Social Justice*. Oxford: Oxford University Press.

Nussbaum, M. (2000). *Women and Human Development. The Capabilities Approach.* Cambridge: Cambridge University Press.

Pam, N. (2013). 'Capacity' In *The Psychology Dictionary*. *Professional Reference.* At: https://psychologydictionary.org/capacity/

Peleg, N. (2013). 'Reconceptualising the Child's Right to Development: Children and the Capability Approach.' *International Journal of Children's Rights* 21: 523-542.

Pinker, S. (2002). *The Blank Slate. The modern denial of human nature.* London: Penguin Books.

Purdy, L. (1992). *In their Best Interests? The Case Against Equal Rights for Children*. Ithaca: Cornell University Press.

Rawls, J. (2001). *Justice as Fairness. A Restatement.* Cambridge, MA: The Belknap Press of Harvard University Press.

Ricoeur, P. (2005). 'Devenir capable, être reconnu' *Esprit* 7: 125-129.

Ricoeur, P. (2006). 'Capabilities and Rights.' In S. Deneulin M. Nebel and N. Sagovsky (eds.) *Transforming Unjust Structures. The Capability Approach.* Dordrecht: Springer.

Robeyns, I. (2005). 'The Capability Approach: a theoretical survey.' *Journal of Human Development* 6 (1): 93-114.

Robeyns, I. (2006). 'The Capability Approach in Practice.' *Journal of Political Philosophy* 14 (3): 351-376.

Robeyns, I. (2017). *Wellbeing, Freedom and Social Justice. The Capability Approach Re-Examined.* Cambridge: Open Book Publishers.

Sadlowski, I. (2010). 'A Capability Approach fit for Children.' Paper presented at the 7th Annual Conference of the HDCA, 21-23 September 2010, Amman, Jordan. A revised version in Lessmann, O., Otto, H-U., Ziegler, H. (eds.) (2011). *Closing the Capabilities Gap. Renegotiating Social Justice for the Young*. Barbara Budrich; Leverkusen.

Saito, M. (2003). 'Amartya Sen's Capability Approach to Education: A Critical Exploration.' *Journal of Philosophy of Education* 37(1): 17-33.

Schaffer, H.R. (1996). *Social Development*. Oxford: Blackwell Publishing.

Schmidt, A.T. (2016). 'Abilities and the Sources of Unfreedom.' *Ethics* 127: 179-207.

Schweiger, G. and Graf, G. (2015). *A Philosophical Examination of Social Justice and Child Poverty.* Houndsmills: Palgrave Macmillan.

Sen, A. (1985). 'Well-Being, Agency and Freedom. The Dewey Lectures 1984.' *Journal of*

Philosophy 82 (4): 169-221.

Sen, A. (1992). *Inequality Reexamined.* Cambridge, MA: Harvard University Press.

Sen, A. (1999). *Development as Freedom.* Oxford: Oxford University Press.

Sen, A. (2002). *Rationality and Freedom.* Cambridge, MA: Belknap Press of Harvard University Press.

Sen, A. (2007). 'Children and Human Rights.' *Indian Journal of Human Development* 1 (2): 1-11.

Sen, A. (2009). *The Idea of Justice.* London: Penguin Books.

Vygotsky, L.S. (1978). *Mind in Society. The Development of Higher Psychological Processes.* Cambridge, MA: Harvard University Press.

Wolff, J. and De-Shalit, A. (2007). *Disadvantage*. Oxford: Oxford University Press.