

Three models of education

Rights, capabilities and human capital

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ABSTRACT

This article analyses three normative accounts that can underlie educational policies, with special attention to gender issues. These three models of education are human capital theory, rights discourses and the capability approach. I first outline five different roles that education can play. Then I analyse these three models of educational policies. The human capital approach is problematic because it is economic, fragmented and exclusively instrumentalistic. Rights and capabilities are in principle multi-dimensional and comprehensive models, and can therefore account for the intrinsic and non-economic roles that education plays. However, depending on how one fills out the specific details of the rights and capability frameworks, they also have some drawbacks. I conclude by arguing that the intrinsic aim of educational policy should be to expand people's capabilities, whereas we should use the rights discourses strategically, that is, when they are likely to contribute to expanding people's capabilities.

KEYWORDS *capabilities, educational policies, gender, human capital, rights*

INTRODUCTION

THIS ARTICLE ANALYSES three normative accounts that can underlie educational policies: rights, capabilities and human capital. What difference do they make to educational policies? Special attention will be paid to how these models deal with issues of gender. I first outline five different roles that education can play. Then I describe and analyse three models of educational policies. The human capital approach is problematic because it is economic, fragmented and exclusively instrumentalistic. This has significant unattractive

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consequences for issues of gender. Rights and capabilities are in principle multi-dimensional and comprehensive models, and can therefore account for the intrinsic and non-economic roles that education plays.

However, as both the rights and the capability framework are quite elastic theoretical accounts, of which several different interpretations exist, they are also vulnerable to problems associated with this. The rights discourse runs the risk of overemphasizing the legal aspects of rights. In addition, a rights discourse can induce policy makers to being contented when they have strictly followed the rules that a limited interpretation of the rights imposes on them, even when additional efforts are necessary to meet the goal that underlies the right. Capability accounts have tried to deal with some of these shortcomings of rights, but while the literature on the capability approach is booming, it is still far from clear what all of its implications are. Moreover, the capability approach gives us a language that is not well known among local or national policy makers and other social actors. The article will conclude by suggesting that it might help to clearly distinguish between an intrinsic level and a strategic level of politics and policy making. The intrinsic aim is to expand people's capabilities, including the capability of educating. Rights are only one possible instrument for reaching that goal, which may be effective in some cases and some contexts, but may not be the most effective instrument in other cases. In other words, we should deal with rights discourses strategically, using them where they are likely to contribute to expanding people's educational capabilities, and supplementing them with other instruments if needed.

THE DIFFERENT ROLES OF EDUCATION

As Jean Drèze and Amartya Sen (2002: 38–40) point out, education can play several roles. For the analysis in this article, I will use a modified version of Drèze and Sen's typology. First, education can be *intrinsically important*. A person may value knowing something simply for the sake of this knowledge. For example, some people find the study of foreign languages, even when one is unlikely ever to use them, intrinsically satisfying: they like the poetic sounds of Italian, the fascinating architecture of German sentences, the beauty of Cyrillic or Arabic script, or they are captivated by the completely different grammar of Japanese in comparison with English or Dutch. Similar arguments can be made for people who are fascinated by understanding chemistry, folk stories and myths, or who are eagerly learning to read and write poems.

Apart from this intrinsic importance, education has a range of instrumental roles that it can play. For the present purposes, let us focus on two dimensions: the personal versus collective, and the economic versus non-economic. The *instrumental personal economic role* of education is that it can help a person

to find a job, to be less vulnerable on the labour market, to be better informed as a consumer, to be more able to find information on economic opportunities, and so forth. This role of education – assuming that the education provided is of minimally acceptable quality – is crucial with respect to people's standard of living, and their ability to protect themselves and their families from poverty and destitution.

The *instrumental economic role* need not always be personal, but can also be *collective*: for example, if a large percentage of the population is illiterate, then the market for books and newspapers is automatically limited. More importantly, if economic growth requires the introduction of certain technologies that need to be taught, or requires a shift from an agriculture-based to an industry- and services-based economy, then an educated workforce will be necessary for economic growth. As we will discuss in more detail in the next section, both the personal and the collective instrumental economic roles of education are the core focus of the human capital approach to education.

The instrumental roles of education are not limited to economic roles: there are also *non-economic instrumental roles* of education. At the *personal* level, one could think of having access to information by being able to read the newspaper or a medical instruction leaflet, being knowledgeable about issues of health, reproduction and contraception, being able to speak with strangers in their languages, being able to work with a computer and communicate with people worldwide through the internet, and so on. Education can open the minds of people: they can recognize that they do not necessarily need to live similar lives to their parents, but may possibly have other options too.

At the *collective* level, the non-instrumental roles of education include that children learn to live in a society where people have different views of the good life, which is likely to contribute to a more tolerant society. Women may discover that the holy books of their religion do not prescribe the submissive female role that their religious leaders advocate as being a duty according to the holy script. If women acquire this knowledge collectively, they may get organized to fight oppressive interpretations of their religion. Men may discover that the prevailing idea in their community, that men are not suited to care for infants and small children, is not a universally shared idea, and that other men's lives are greatly enriched by fully participating in the care and upbringing of their children. If enough men gain this knowledge, this may change norms of masculinity and femininity in society, and could potentially widen the opportunities of both men and women to lead the lives they truly value, rather than follow uncritically some (unspoken) scripts that are dominant in their communities.

In what follows, I will use this simple typology of the roles of education to analyse three models of education – human capital, rights and capabilities.

EDUCATION AS HUMAN CAPITAL

A first approach to educational policies conceptualizes education as human capital. Human capital theory was pioneered by a group of University of Chicago economists, including most prominently Gary Becker and Theodore Schultz in the 1960s (Becker, 1993; Schultz, 1963). Today human capital theory is a well-established part of standard economic theory. Human capital theory considers education relevant in so far as education creates skills and helps to acquire knowledge that serves as an investment in the productivity of the human being as an economic production factor, that is, as a worker. Thus, education is important because it allows workers to be more productive, thereby being able to earn a higher wage. By regarding skills and knowledge as an investment in one's labour productivity, economists can estimate the economic returns to education for different educational levels, types of education, etc.

This human capital model of education certainly makes an important point, namely that skills and knowledge, acquired through education, are an important part of a person's income-generating abilities. Especially in the context of people living in severe poverty, this is very important, as having some basic skills or having a decent education can make all the difference between starving and surviving, and between merely surviving and having a decent life. Thus, the attention paid to education as human capital should be applauded, as it has broadened development discourses that only focused on technical progress and macro-economic development, to include people as central to economic development efforts.

However, the human capital model of education has a number of problems that have consequences both in developing societies as well as in post-industrialized societies. The first problem with the human capital model is that it is economic: the only benefits from education that are considered are an increased productivity and a higher wage. Human capital theory conceptualizes the world through the eyes and disciplinary lenses of contemporary mainstream economics, a discipline that has increasingly blocked out the cultural, social and non-material dimensions of life, except in some highly reductionist formal models. Indeed, the overarching criticism of alternative economic schools on mainstream economics is that it cannot satisfactorily deal with issues of culture, gender, identity, emotions, history and so forth (Davis, 2003; Fine, 2002; Folbre, 1994). Thus, human capital theory cannot explain the behaviour of someone who wants to spend her time studying something without any prospect of economic returns from this education. In human capital theory, as in the other parts of mainstream economics, human beings act for economic reasons *only*. That people might act for social, religious,

moral, emotional, or other non-economic reasons, cannot be accounted for by this theory.

The second problem with human capital theory is that it is *entirely* instrumental: it values education, skills and knowledge *only* in so far as they contribute (directly or indirectly) to expected economic productivity. Of course, there is nothing wrong with valuing the instrumental value of education; the problem lies in the fact that non-instrumental values of education are not valued in the human capital approach. Thus, knowledge that is most likely not economically instrumental, such as learning to read and understand poems, or studying some ancient culture, has no investment value from the perspective of human capital theory (except if one were able to generate money by writing poems or from your knowledge of ancient cultures).

The combination of the overly economic focus of human capital theory, together with its exclusive focus on the instrumental value of education, has consequences that play out differently for different groups of people. To put it in the language of human capital theory, not everyone has the same rate of return on education. Given the same amount and quality of education, not every child or adult will to the same degree be able to use this education for income-generating activities. This can be due to either internal or external restrictions, which can be social or natural (or a combination of both). Internal restrictions are, for example, physical or mental disabilities. External restrictions from nature are, for example, the absence of a labour market for skilled labour, as in a rural mountainous area where there is no demand for workers who are trained as clerks. External restrictions are much more often profoundly social and cultural in nature. For example, in some communities women are not allowed to work outside the home. In such cases, whatever the knowledge and skills of a woman, her returns on education will be artificially limited. But the external restrictions related to gender are often much more subtle and widespread. Gender, understood as a set of social rules, norms and expectations, leads virtually everywhere on earth to a gender division of work whereby women carry the primary responsibility for child care and the daily management of the household (Folbre, 1994; Kimmel, 2000). In addition, despite all popular beliefs to the contrary, discrimination of women on the labour markets persists (Goldin and Rouse, 2000; Neumark et al., 1996; Wennerås and Wold, 1997). Some discrimination might still be intentional and overt, but studies for North America and Europe suggest that many instances of gender discrimination in the labour market are non-intentional, but rather caused by the workings of subtle stereotypes (Valian, 1998).

In both developing and post-industrialized societies, the consequence is that women will be expected to shoulder the responsibilities for the unpaid work in the household and the care for children and other family members. In the

absence of informal networks of support, or social provisions provided by the welfare state, women will have a hard time engaging in paid work on an equal footing as men. As Drèze and Sen write for India,

the gender division of labour (combined with patrilineal property rights), tends to reduce the perceived benefits of female education. In rural India, a vast majority of girls are expected to spend most of their adult life in domestic work and child-rearing . . . It is in the light of these social expectations about the adult life of women that female education appears to many parents to be of somewhat uncertain value, if not quite 'pointless'. (Drèze and Sen, 2002: 161–2)

The consequence is that money spent on education – if it is conceptualized as an economic investment – is regarded as better spent on boys/men than on girls/women. In conditions of scarcity, this will lower girls' relative chances of being educated.

Another problem caused by conceptualizing education only as an economic investment is that such logic compels us to compare this investment with other alternative types of investment. Indeed, a classical textbook in development economics explains that 'using [the human capital] approach, the family's rate of return on an investment in education would then be compared with the returns on other investments they might make. The family would invest in education if it offered the highest return' (Gillis et al., 1992: 231). Just as in the case of a typical financial investments decision, private or public investment in education will then be compared with other possible investments. Other non-material effects of these investments are thereby being disregarded. Sabina Alkire (2002) made this point convincingly in her study of an Oxfam Non Governmental Organization (NGO) project in Pakistan, in which a literacy class for Muslim women was set up. Such a female literacy project is a prime example of a project that would not be funded if it were evaluated only on the basis of a standard cost–benefit analysis, with education seen as a human capital investment only, as this project has hardly any effects on women's earnings because there is no local market for female employment. But Alkire found that the project had fundamental transformative effects on the students: the women learned that they are equal to men, that they do not need to suffer abuse, and that literate women can solve their own problems; they learned to read, and experienced great satisfaction at being able to study. The problem is that these intangible effects are not accounted for in narrow economic views, such as human capital theory.

Summing up, understanding education exclusively as human capital is severely limiting and damaging, as it does not recognize the intrinsic importance of education, nor the personal and collective instrumental social roles of education. Note that this does not imply that we should completely do away

with seeing education as human capital; instead, it is important to recognize that there is more to education than human capital. As Sen put it, ‘we must go *beyond* the notion of human capital, after acknowledging its relevance and reach. The broadening that is needed is additional and cumulative, rather than being an alternative to the “human capital” approach’ (1997: 1959–61).

THE RIGHT TO EDUCATION

While most economists and economic consultants tend to think about education primarily in human capital terms, people and organizations whose values are embedded in a human rights framework tend to stress that education is a human right that should be guaranteed to all. Rights-based conceptualizations of education are especially endorsed by the organizations of the United Nations that are concerned with children and education, such as UNESCO and UNICEF. The right to education model is, at the policy level, perhaps most directly associated with the Education for All (EFA) movement. In the declarations formulated within the EFA framework, the international community has committed itself to have all eligible children attending fee-free primary schooling by 2015 (UNESCO, 2003/4).

The rights-based framework submits that every human being, including every child, is entitled to decent education, even when one cannot be sure that this education will pay off in human capital terms. As Katarina Tomaševski, an independent rights-based advocate, writes: ‘Education should prepare learners for parenthood and political participation, it should enhance social cohesion and, more than anything, it should teach the young that all human beings – themselves included – have rights’ (2003: 33).

The rights-based discourse clearly prioritizes the intrinsic importance of education. Whether or not an object of a right has any instrumental value, does not matter for its claim to be the object of a right. Moreover, education is not seen simply as ‘a good thing’ to be pursued if and when there are some funds available, but rather as the right of every child, implying that the government needs to mobilize the resources needed to offer a quality education (UNICEF, 2003: 8).

Viewing education as a right forms the conceptual antipole of viewing education as human capital. The latter stresses efficiency considerations, while the former stresses justice-as-rights considerations. This has consequences for how human beings are viewed: human capital ultimately sees human beings as input factors for economic production and growth, whereas a rights discourse sees human beings as the ultimate ends of moral and political concerns. As a consequence, people whose economic productivity is unlikely to benefit much from education, such as mentally disabled children, are

nevertheless equally entitled to education as people who are expected to have a high economic return on education.

Although the rights-based discourse is therefore certainly appealing, it still has some limitations and problems of its own. The first problem is that it often sounds overtly rhetorical. Some governments of developing countries have legally granted every child a right to education, but still millions of the children in their countries have no education at all, or might be officially enrolled but are not present in schools, or are present in schools where there are no teachers (Tomasevski, 2003). Some educationalists have raised similar concerns with respect to the rights based discourse at the global level. For example, Elaine Unterhalter writes:

It is widely held in the Universal Declaration of Human Rights, in documentation associated with the EFA movement, with the Millennium Development Targets and in Constitutions of many countries that education is an intrinsic good for women and men. But sometimes these statements appear merely rethorical. (Unterhalter, 2003b: 8)

This is certainly a concern that some readers will have when reading through the reports of the UN agencies that deal with education. Most grand declarations on education are formulated in terms of rights or overall outcome targets, without precisely specifying who carries which duty to make sure that these targets are met, or that these rights are effectively granted. By now we have a long history of such declarations and other statements of good intentions that have not led to the promised outcomes, and many people have become quite sceptical about such grand statements.

A second problem with the rights-based discourse is the risk of reducing rights to legal rights only. As Thomas Pogge (2002: 52–3) points out, human rights can be understood as moral rights or as legal rights. In principle, they can co-exist and can be complementary. For example, laws and the protection by the judicial system can be important to effectuate and protect moral rights. Pogge criticizes the view that human rights are whatever governments agree them to be. This is only true of legal human rights, not of moral human rights. The latter owe their existence to their moral nature, whether or not they are endorsed by governments and protected by laws and the legal system. An important consequence of viewing human rights as moral rather than (only) as legal is that it creates obligations that may go beyond those of the government only. As Sen puts it, 'If one is in a plausible position to do something effective in preventing the violation of such a right, then one does have an obligation to consider doing just that' (2004: 340–1). In the political discourse on the right to education, it is not always clear whether one is talking about moral or legal human rights. It is, however, important to have this spelled out, as it has important consequences regarding whom might be called upon to

contribute to the effective realization of the right to education. If it is agreed that the right to education is not only a legal but also a moral right, then everyone who is in a position to help realize this right should see it as her moral obligation to contribute.

A third limitation of the rights-based model of education is that, once the government agrees that every child should have the right to be educated, it might see its task as being precisely executing this agreement, and nothing more. Well-developed rights-based educational policies will state precisely which rights are guaranteed to whom, and what the government has to do to ensure that the rights are not only rethorical, but also effective. So far, so good. But the guarantee that the material underpinning of rights is secured still gives us only a partial view on the lives of learners. For if schools are available and accessible, and teachers are well-trained and well-paid, and teaching material is provided and a good curriculum and pedagogy is developed, it still does not guarantee that all children will go to school and learn. Sometimes, it will be necessary that the government goes beyond its duties in terms of the rights-based policies, to undertake action to ensure that every child can fully and equally enjoy her right to education. At such a point, there is a risk that the government will hide behind the rights-based educational policy, claim that it did what it needed to do to fulfil its obligations to secure these rights, and that no further claims can be made. Of course, if all governments worldwide had already come to this stage in their educational policies, and provided all the material conditions needed for education for all, then millions of children in the world would be better off than they are today. But at the level of being a conceptual model for educational policies, a complete analysis would also investigate whether there are any other factors constraining children to learn. Such constraining factors could be violence towards girls, which would turn going to schools into a hazardous undertaking, as is sometimes the case in South Africa (Unterhalter, 2003a). Other constraining factors are social norms and cultural beliefs, for example when parents are preoccupied that “‘over-educating” a daughter may make her more difficult – and more expensive – to marry’ (Drèze and Sen, 2002: 162).

Finally, another limitation of the rights-based conceptualization of educational policies is that it is virtually exclusively government-focused. This follows, in part, from viewing human rights as legal, rather than moral. It also follows from the state-centred paradigm that has dominated political thinking for the last decades, even though political theory is now moving away from this. But, as some scholars have argued, in some countries the governments are part of the problem, rather than part of the solution (Menon, 2002). The right to education is a right that governments owe to their citizens, or that governments in rich societies owe (even if only to a limited extent) to the

citizens of poor countries. But surely individual persons, families and communities also owe their children access to good education, even when they are not bound by any legal duty to provide any such education.

Summing up, conceptualizing education as a right is an important alternative to education as human capital, and has certainly many advantages over the human capital model. Nevertheless, I have pointed out some potential limitations and problems with this model.

EDUCATION AS A CAPABILITY

In the last two sections, I pointed out that Sen has called for a move beyond the human capital approach and has formulated a critique on understanding rights as legal rights only. In addition, Sen has offered an outline of an alternative conceptual model: the capability approach (Sen, 1992, 1999). Capabilities are the various functionings that a person can attain – where functionings are the constitutive elements of living, that is, doing and being. Examples of functionings are being healthy, being educated, holding a job, being part of a nurturing family, having deep friendships, etc. Functionings are thus outcomes or achievements, whereas capabilities are the real opportunities to achieve valuable states of being and doing. The capability approach is a broad normative framework for the evaluation and assessment of individual well-being and social arrangements, the design of policies, and proposals about social change in society. It is used in a wide range of fields, most prominently in development thinking, welfare economics, social policy and political philosophy. It can be used to evaluate several aspects of people's well-being, such as inequality, poverty, the well-being of an individual or the average well-being of the members of a group. It can also be used as an alternative evaluative tool for social cost–benefit analysis, or to design and evaluate policies, ranging from welfare state design in affluent societies, to development policies by governments and non-governmental organizations (NGOs) in developing countries (Robeyns, 2005).

Education is important in the capability approach for both intrinsic and instrumental reasons (Drèze and Sen, 2002; Unterhalter, 2003b). Being knowledgeable and having access to an education that allows a person to flourish is generally argued to be a valuable capability (Alkire, 2002: 255–71; Nussbaum, 2003; Robeyns, 2003: 79–80; Sen, 1999; Unterhalter, 2003b). But being well-educated can also be instrumentally important for the expansion of other capabilities. Drawing on the Indian experience, Nussbaum (2003: 332–3) highlights the importance of literacy to a woman in expanding her opportunity set, which will allow her to leave an abusive marriage, or be on an equal footing to take part in politics.

For adults who do not suffer from severe mental illnesses, Sen argues that a good and just society should expand people's capabilities, but should refrain from pushing them into particular functionings. In principle, people's capabilities are the unit of moral concern, not functionings. Hence both men and women should have the capability to hold jobs, but they should be able to make decisions themselves about whether to hold jobs or not, or in a joint but equal decision with the other members of their households. For children, however, the situation is different as they are generally not the best decision-makers when it concerns their own well-being and personal development (Saito, 2003). Thus, compulsory education for children makes perfect sense from a capability perspective – but always with the qualifier that the education is of high quality and aims at the development of the full human being, instead of stunting children in their emotional, personal and intellectual development (Nussbaum, 2003).

Finally, an important feature of the capability approach is its comprehensiveness and deeply interdisciplinary character. Most normative theories are restricted in scope, either on disciplinary grounds (like human capital theory being firmly embedded in neoclassical economics), or because the theorist has put limits on the scope when working out the theory. The scope of the capability approach, by contrast, is as wide as human life and societal arrangements stretch in reality. Moreover, using a capability perspective, it is important to evaluate a social arrangement or policy on *all* affected capabilities, that is, to consider all changes in the opportunity set or the well-being of people. It is well known that partial evaluations can be very misleading: for example, if discrimination against women in education and employment is effectively eliminated, one may think that holding high-skilled jobs is now part of women's capability sets. However, this is only the case if other sources of gender inequality would be simultaneously addressed, such as allowing parents to balance work and family commitments, and changing attitudes among both men and women which make women the primary parent responsible for the family, and which regard men's jobs as more important than women's. Such concerns bring us into the realm of social norms, and dominant codes of masculinity and femininity. In the capability approach, all sources of inequalities in people's opportunity sets are taken into account, hence in principle a capability analysis should always strive to account for all significant effects, even if this is a hard task.

THE THREE MODELS COMPARED

What are the differences between the capability approach compared with the human capital model and the human rights approach? The first difference

relates to the different roles that education plays in these three models. As was pointed out in its description, the human capital model stresses only the instrumental economic roles of education. The 'right to education' model mainly highlights the intrinsic personal role of education. The capability approach acknowledges all roles of education.

The second difference relates to the nature of the three approaches. Human capital theory is firmly embedded in neoclassical economics, and human rights theory in its own legal and moral traditions. It is relatively clear how one needs to apply human capital theory to educational decisions. Similarly, there is by now a well-established literature on the right to education, in large part endorsed by international agencies, which also include translations from the theoretical level to the policy level (Arnot and Dillabough, 2000; Davis, 2000). The capability literature still largely lacks such a degree of operationalization, even though progress has been made recently. This is in large part due to the underspecified nature of the capability approach: the approach only outlines what is important when evaluating social arrangements and people's well-being and freedom, but to apply it to concrete cases one needs to supplement this framework with additional social theories related to the topic one is analysing (Robeyns, 2003: 67–8). This is especially important for gender concerns, as applying the capability approach to a policy question, based on a very thin account of gender injustice, can lead to dramatically different policy recommendations (Robeyns, 2003, forthcoming; Unterhalter, 2003a: 17). However, this challenge can also be considered a good thing, as it forces policy makers or other evaluators to make explicit the underlying theory of gender injustice or gender relations that they are assuming. The theoretically more complete nature of the human capital model, and the rights discourse, does not pose this challenge, but the downside is that notions of gender relations remain more implicit. In the human capital model, and neoclassical economics more generally, the implicit view is of people being independent and unconstrained by commitments and responsibilities towards other dependent human beings, which might affect the labour market choices that people make (Folbre, 1994). As feminist economists have concluded, this removes all power differences and structural inequalities between men and women. The assumption in the human capital model is that decisions, for example whether to educate a son or a daughter, are taken only on the grounds of economic efficiency, and not also based on structural power relations in families, which are in part sustained by the local nature of gender relations. In rights-based approaches, men and women are entitled to equal rights, but once these equal rights are granted, no further claims for social change can be made. For example, if citizenship rights grant equal access to schooling for boys and girls, then governments might be satisfied under such a rights-based approach, even if the outcomes display significant gender

inequalities. Gender inequalities are often reproduced in very subtle ways. Moreover, gender inequalities affect men's and women's identities, which lead to behaviours, choices and judgments that tend to 'normalize' gender inequalities. All this is hard to capture in a rights-based framework, as rights are by definition about principles (either legal or moral). In contrast, the capability approach is wide in scope and complex in comprehensiveness, and employs analytical categories that allow these concerns and complexities to be taken on board. However, there is no guarantee that this will effectively be done; indeed, Unterhalter (2003a) has argued that Sen's own writings on education as a capability fail to take account of the complexities related to schooling.

A third difference relates to how well known the discourses behind these three models are. Whereas human capital theory and human rights discourses are widely known, the capability approach is a relatively unknown discourse outside academia. This had led some to question why we would need this language if we see that grassroots organizations effectively use the language of rights. Anne Phillips (2002) has argued that it is not entirely clear what kind of difference the capability approach makes, with the claims that the second-wave women's movement has been making. Phillips's critique actually points to a larger issue, which is that the (relatively new) discourse on capabilities still needs to demonstrate in much more detail how it differs from other normative theories. However, with respect to gender issues, the capability approach seems to have the definite advantage that it tries to overcome the compartmentalization of feminist concerns, both in the women's movement and in academia. The deeply interdisciplinary nature of the capability approach poses challenges, but also implies that concerns that have become more and more divided up between disciplines, and in policy between government departments, are reconnected under one theoretical umbrella. Phillips is not the only scholar who questions the virtues of establishing a new theoretical language. Alisson Jaggar (2002: 230–7), in a critique of Martha Nussbaum's (2000) work on capabilities, has argued that Nussbaum has not convincingly demonstrated that capabilities are a helpful alternative or supplement to rights. Instead, Jaggar argues, the discourse of rights is well established both in philosophy and law, and grassroots women's organizations worldwide have used the language of rights to fight injustices. While Jaggar admits that rights have been criticized by feminists as being not only unhelpful but also capable of being used against them, she also stresses that feminists have argued that 'fully protecting women's human rights requires changing not only laws but also cultural practices and economic systems' (Jaggar, 2002: 237).

What are we to make of this critique? First, it might be important to note that Jaggar is attacking Nussbaum's version of the capability approach, and not Sen's; this is an important point, because Nussbaum defends a list of ten

capabilities which she argues all governments should guarantee to their citizens, and on which she hopes a global consensus can be established. Sen, by contrast, offers only a language and a framework, which groups and individuals can use to formulate their own assessments and proposals for change. This is a crucial difference, as it makes Nussbaum's version much less bottom-up and less amenable to democratic use than Sen's version (Robeyns, 2005: 103–7). Secondly, while Jaggard is right to point out that one could argue that protecting human rights requires changing not only laws but also cultural practices and economic systems, this is certainly not the dominant view or interpretation among governments and intergovernmental organizations who have to protect people's rights. Moreover, once a legal right is guaranteed, a government might wash its hands and say that it did its duty, even if the real situation is far from optimal because of the complexity of social life. Nevertheless, Jaggard and Phillips surely have a point regarding the accessibility of the capability language in the political arena.

These differences between the three models lead me to the following suggestion. Human capital is always only instrumental; it should therefore only enter our normative analysis when thinking about efficiency concerns and thinking about some of the content of education, but, for the reasons pointed out earlier, it should never function as the overarching theoretical framework used to guide educational policies, fiscal policies and budgetary decisions. Rights clearly are important in daily discourse. However, at the theoretical level, rights always need a prior moral criterion. Rights are always rights *to something*. Capabilities, on the other hand, are always things that must matter intrinsically, whether or not they additionally also matter instrumentally. This allows us to formulate a two-pronged thesis. The first part follows Harry Brighouse, who writes:

it is more illuminating to think of capabilities as the bases of rights claims. If someone claims that there is a fundamental right to X, it is incumbent on them to justify it; and justification will proceed by showing how the right to X is required to serve some capability. If there is no capability that it serves, then it is not a fundamental right. (Brighouse, 2004: 80)

Thus, our ultimate aim is to expand people's capabilities, including the capability of education. Rights are an instrument in reaching that goal.

The second part starts from the observation that rights are only one possible instrument to reach the goal of expanding educational capabilities. In some contexts, there might be more useful instruments, such as creating a new language that will allow new forms of association and collaboration between groups who are now using different languages, or instruments to challenge social norms, such as street theatre or other forms of arts. Moreover, if the right to education is interpreted too narrowly and does not deliver the capability of

education, then concerned children, parents and other citizens should argue that more needs to be done to expand the educational capability. We should thus deal with rights strategically: in some political contexts this might be a useful instrument; in other political contexts we need other instruments. This also provides a reply to Jaggard: if the fact that the rights-based discourse is much better established than the capability discourse makes it a strategically more powerful tool to advocate for education, then it should certainly be used on strategic grounds. But within grassroots organizations, universities, think-tanks and the offices of policy makers, it might always be good to keep in mind that what ultimately matters is not just the proclamation that we all have a right to education, or the effective protection of that right, but whatever it takes policy makers, and others who are in a position to contribute, to work towards a high-quality education for all, as part of a more comprehensive view on what we owe to each other, and especially to children, in a just society and a just world.

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