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Promoting Human Freedoms under Conditions of Inequalities: A Procedural Framework

1. Introduction

Considering people as subjects of their own lives, and not passive objects of social welfare policies, is central in Sen's capability approach to development. The expansion of the freedoms that people have reason to choose and value, can only rest upon individual actions and the agency they dispose of to act. This is why the foundational building block of development lies in 'the ability of people to help themselves and to influence the world' (Sen, 1999b, p. 18).

Throughout his works, Sen emphasises that people 'have to be seen as being actively involved in shaping their own destiny' (Sen, 1999b, p. 53). In that respect, the capability approach grants a fundamental role to the public debate and democratic decision-making, or in more generic terms, to the ability to participate in the life of the community and to take decisions in matters that affect one's own life and the life of fellow-human beings. Drèze and Sen (1995, p. 106) note that this ability 'to do something not only for oneself but also for other members of the society is one of the elementary freedoms that people have reason to value, […] even among people who lead very deprived lives in material terms.'

Democratic freedom, or the ability to participate in the life of the community, has three fundamental roles (Alkire, 2002; Sen, 1999a). First, it is of fundamental intrinsic worth to human well-being, it is 'a significant ingredient, a critically important component' (Sen, 2002, p. 79) of the capabilities that individuals have reason to choose and value. Second, given the open-endedness and the plurality of the valuable capabilities, democratic freedom plays a crucial role in specifying and choosing the capabilities that are worthwhile to be promoted. For example, referring to the choice between cultural tradition and poverty on the one hand and modernity and material prosperity on the other hand, Sen (1999b, p. 31) writes that, 'if a traditional way of life has to be sacrificed to escape grinding poverty or minuscule longevity, then it is the people directly involved who must have the opportunity to participate in deciding what should be chosen.' The role of participation also extends to the choices of the means that will bring about the chosen priorities,

and hence to the kind of policies required to promote the chosen capabilities. Third, democratic freedom is of constitutive importance in value formation. It clarifies and constructs a society's values and priorities, builds consensus and achieves compromises that prevent conflicts.

The paper begins by summarizing different definitions and rationales that Sen's capability approach has given to the ability of people to be 'actively involved in shaping their own destiny.' It highlights a major tension between the exercise of political freedom and the expansion of other human freedoms when the exercise of political freedom occurs within structures of power inequalities. This tension has been especially addressed by what is known in political philosophy as the deliberative democracy literature. The paper reviews that literature and examines to what extent it can provide insights for loosening that tension. Although the literature on deliberative democracy contains interesting elements for levelling the biases introduced by inequalities, it is argued that it is insufficient to orient the exercise of political freedom towards the removal of unfreedoms because of the absence of a substantively-guided (or outcome-oriented) procedure. The paper concludes by examining other ways in which this tension may be loosened. It suggests that the capability space that Sen's capability approach advocates for well-being evaluation be supplemented by a procedural space of evaluation which is outcome-oriented. In parallel to Nussbaum's 'thick vague theory of the good' which offers answers to the problems of indeterminacy of Sen's capability approach, the paper proposes a 'thick vague theory of political freedom'.

2. Exercising political freedom in Sen's capability approach

To refer to the ability of people to participate in policy decision-making, Sen refers interchangeably to the notions of public debate, democracy or participation. For example, he sometimes speaks of 'public discussion' when it comes to identifying the valuable capabilities that societies ought to promote (Sen, 1999b, chapter 10). In other places, he speaks of the role of popular participation' in decision-making (Sen, 1999b, p. 247). And sometimes, he speaks of

democracy as the exercise of civil and political rights through free elections, free press and freedom of expression (Sen, 1999b, chapter 6).

In *India: Development and Participation*, Drèze and Sen (2002) use the generic term of 'democratic practice' to refer to any practice that reflects the involvement of people in shaping their own destiny. Democratic practice includes, for example, the extent of political participation (like election turnouts, the number of political parties, and the number of people who present themselves in elections), the awareness of the public of matters of policy decision-making and policy implications, the vigour of the opposition to the ruling political party, the nature of popular organizations, or the distribution of power in the country (Drèze and Sen, 2002, p. 347).

While Sen's capability approach uses the notions of democratic and participatory decision-making interchangeably, they are quite strongly differentiated in development theory, with democratic decisions being decisions taken by freely elected governments, and participatory decisions being decisions taken directly by the people affected by that decision. Drèze and Sen's use of 'democratic practice' to refer to both participatory and democratic decision-making therefore appears rather confusing. It does not distinguish the fundamental differences between democratic decision-making, which is a way of making decisions in the political community through existing democratic political structures (such as a body of elected representatives, a multi-party political system, opposition parties, free expression, free elections, etc.), and participatory decision-making, which is a way of making decisions by directly involving the people, bypassing normal democratic mechanisms. This distinction is fundamental for analysing the processes through which decisions are made in a political community. Participatory policy-making mechanisms which bypass the existing democratic political structures may be unable to transform the outcomes of decisions into actions if they fail to take into account the power structures involved in the existing political processes of policy decision-making. Therefore, in order to maintain the distinction between both forms through which people can partake in decisions that affect them, the notion of the 'exercise of political freedom' is suggested as a more adequate term, encompassing both notions while retaining their distinguished characteristics. *Political freedom* is defined as the ability to participate in the

life of the political community by deliberating about which actions to take in the particular political community, whether through the existing (democratic) political structures or through ad-hoc direct participatory structures.

Sen has been reluctant to move beyond consequentialism in promoting individual freedoms. Sen (2000) defends a broad consequentialist approach to decision-making, arguing that the informational basis of evaluation should go beyond the space of utilities and be broadened to include individual freedoms and rights, rather than giving procedures a greater weight. He warns especially of the dangers of adopting policies according to a procedural framework, irrespectively of the consequences that policies entail. The only criteria for decision-making that the capability approach offers is that public decisions be democratically agreed upon and have positive consequences for the expansion of the freedoms that people have reason to choose and value.

However, if Sen advocates the precedence of consequentialist reasoning, and hence the precedence of the expansion of freedoms, over procedural reasoning in decision-making, it seems that the three fundamental roles that he attributes to the exercise of political freedom (the intrinsic, instrumental and constructive roles) may contain an internal tension. Exercising political freedom may lead to a situation in which members of a political community experience more unfreedoms (such as a lower ability of being healthy or educated than a situation where less political freedom is exercised). The claims that people express through democratic practice are not always good claims that enhance valuable human freedoms – e.g. the expression of people's claims can lead to allocating more resources to the military than to primary health and education. The values that democratic practice may build are not necessarily good values upon which a society should be built, like for example racism. In the practice of development, a freedom-approach to development would need to be structured by certain principles that link the exercise of political freedom to its overall aim. If Sen's capability approach to development is to maintain its position of making the exercise of political freedom its central building block and is to maintain political freedom as the main instrument with which to influence and guide development policies, it would need to include

an evaluation of the exercise of political freedom, both in terms of its outcomes (its consequences on human freedoms) and in terms of its procedures (its respect of normative principles).

Sen (1992, p. 39) has stressed that functionings and capabilities are to be seen as 'constitutive of a person's being', and that therefore 'an evaluation of well-being has to take the form of an assessment of these constitutive elements.' But he has not stressed equally that the procedure through which well-being is to be enhanced, the exercise of political freedom, has multi-dimensional aspects as well. It contains *constitutive* elements or constitutive principles, namely a set of moral principles that will guarantee that the exercise of political freedom is consistent with an expansion of human freedoms. In that sense, the evaluation of development would not only need to include an assessment of the constitutive elements of human well-being, but also an assessment of the constitutive principles of political freedom. The problems involved in Sen's reluctance to give contents to the constitutive principles of the exercise of political freedom are similar to the problems involved with Sen's reluctance to give a specific content to the constitutive elements of human well-being.

One of the major factors that invite us to revise our faith in what the exercise of political freedom can do for promoting human freedoms is that the exercise of political freedom occurs in a context of power inequalities with conflicting interests. The world political ideological system and the world configuration of political power impose their constraints on the exercise of political freedom. Even if the members of a particular community had equal political power, external forces would still impose their views on some decisions, which this egalitarian political community would not be able to counteract. In our inter-connected world, there is no clear separation between decisions taken according to the exercise of political freedom within a particular political community and imposed decisions, or imposed constraints, from the outside. Along with these power imbalances with the outside world, which affect a country's margin of manoeuvre, one has also to include the power imbalances within the political community itself in which political freedom is exercised. Although every person might formally have an equal political voice, those

who command more resources and education are likely to better be able to influence the decisions to their own advantage.

Drèze and Sen (2002) are not ignorant of the influence of socio-economic inequalities upon the exercise of political freedom, and of the links between economic and political power. This has much to do with a tension that Sen has pointed out but little explored, namely the tension between the freedom to participate in market economic exchange and the freedom to participate in the life of the political community. Among the capabilities that people have reason to choose and value, there is not only the capability to participate in the life of the community, but also the capability to participate in markets. As Sen (1999b, p. 112) notes, 'We have good reasons to buy and sell, to exchange, and to seek lives that can flourish on the basis of transactions. To deny that freedom in general would be in itself a major failing of society.' Sen warns however that freedoms in markets should go hand in hand with freedoms in other institutions, so that the extensive freedoms of some in markets do not override the freedoms of others in participating in the life of the community. Although the freedoms to pursue market transactions lead to efficiency results, they may also result in greater inequalities, and corrective measures might need to be taken so that the freedoms of all in different institutions, market and non-market, may be guaranteed. For example extensive freedoms in market transactions may result in environmental loss, or in reduced lower access to health or educational facilities by lower income groups. But Sen (1999b, p. 113) emphasizes that the remedy to correct the unfreedoms that market freedoms might generate 'has to lie in more freedom–including that of public discussion and participatory political decisions.'

Because those who enjoy more economic freedoms and command more resources often trump the freedoms of those who command less resources, the exercise of political freedom has to be 'intimately connected with the demands of equality' (Drèze and Sen, 2002, p. 9). If built upon the basis of the existing pattern of economic and social relationships in a country, exercising political freedom does not naturally wipe out the existing distribution of power generated by the existing pattern of economic and social relationships, but is more likely to perpetuate the existing distribution of power (Da Cunha and Pena, 1997). Are we then bound to conclude that exercising

political freedom only ends up in either a virtuous or vicious circle depending on the initial conditions of political equality?

Drèze and Sen (2002) insist that the presence of inequalities cannot justify authoritarian regimes that would provide a more equal basis for exercising political freedom. Even if a perfectly benevolent dictator provided all the fundamental human freedoms (so that no member of that political community would be lacking of food, shelter, health, education, etc.), it would violate an important aspect of human well-being if it deprived the members of the community of their say in the organization of the community. A route that can be taken to promote human freedoms is to enhance the political power of the unprivileged. Drèze and Sen (2002) propose two ways. Firstly, the capability of the underprivileged for self-assertion must be enhanced through offering incentives for them to organize in political organizations. Secondly, a sense of solidarity must be created between the most privileged and the underprivileged (e.g. intellectuals and higher social classes speaking on behalf of the underprivileged and defending their interests). But the question remains how to bring about these two crucial factors. If a country is driven by powerful elites who are not sensitive to the needs of the less privileged, and if powerful elites who are directing policy decisions impede the poor from organizing themselves politically, one can have legitimate doubts about how these changes are ever to emerge in unequal societies.

3. Deliberative democracy

In the field of philosophy, a vast literature has recently emerged about the legitimacy of the exercise of political freedom in the context of inequalities. This literature is known as deliberative democracy (see for example Bohman, 1998; Bohman and Regh, 1997; Freeman, 2000; Gutmann and Thompson, 1996; Richardson, 2002). That literature emphasises that decision-making in the political community should be the outcome of a *process* of public *deliberation* between *equal* and *free* citizens about the ends of the political community and about the means to achieve these ends. Democratic decision-making is a matter of debating according to a set of procedures that will guarantee that each participant has equal power and equal freedom in the

decision-making process. Only such an outcome, according to deliberative democracy theorists, is a fully legitimate political decision.

Deliberative democracy is defined as:

a framework of social and institutional arrangements that 1) facilitate free reasoning among equal citizens by providing for example favourable conditions for expression, association, and participation, while ensuring that citizens are treated as free and equal in that discussion; and 2) tie the authorization to exercise public power to such public reasoning, by establishing a framework ensuring the responsiveness and accountability of political power to it through regular competitive elections, conditions of publicity, legislative oversight, and so on (Cohen, 1998, p. 186).

The deliberative democracy literature is fundamentally conceived as a normative *ideal* that policy decision-making should attain. It does not seek to explain what collective decision-making *is*, but seeks to set the conditions for what it *ought to be*. Such an idealistic stand may appear quite remote from the concern of this paper, which is to examine ways in which the exercise of political freedom may be reconciled with the overall aim of the capability approach in *actual* world conditions. However, the ideal conditions that the deliberative democracy literature sets as necessary conditions for a fair and legitimate collective decision-making may provide insights for setting some conditions that may act as way of leveling the playing field for inequalities in power that bias the exercise of political freedom. These insights are now examined.

Firstly, the essential feature of deliberative democracy is that citizens are treated as *free and equal* in the deliberation process. The ideal condition of freedom entails that 'the participants regard themselves as bound only by the results of their deliberation and by the preconditions for that deliberation. Their consideration of proposals is not constrained by the authority of prior norms' (Cohen, 1997, p. 4). People enter the deliberation process with a willingness to change their prior vision about what should be done. Bound only by the deliberative process itself, participants have an equal voice and no participant, or group of participants, dominates another. If the conditions of equality are not met at the beginning of the deliberation process, unequal conditions are most likely to lead to an outcome that will deepen the inequalities, since a deliberation among

unequal participants will often tend to 'reproduce and reinforce the advantages of those who possess sufficient cultural resources and political capacities to get what they want' (Bohman, 1996, p. 18).

Secondly, the requirement that each person be given equal voice in the decision entails that each person be endowed with the necessary means that guarantee such a requirement to be met. Bohman (1997, p. 325) suggests that, in order to be able to function well in the public sphere and to be free and equal citizens, participants should not be above or below a certain *threshold level of adequate political functioning*, which is 'the capability for full and effective use of political opportunities and liberties in deliberation.' If citizens are below a certain threshold level of adequate political functioning, they lack the skills necessary to engage into public deliberation, and will therefore not be able to participate in the deliberation and influence its outcome. Conversely, if some citizens are above a certain upper threshold level of adequate public functioning, they will have too much power in influencing the deliberation outcome.

The idea of adequate public functioning requires a high level of *cognitive and communicative skills,* which ensures that nobody is below or above the threshold (Bohman, 1996, 1997). This requires a strong educational system guaranteeing equal educational opportunities, with adequate public spending. As well, participants in the deliberative process need to have the necessary skills to access and process information in order to be able to use and transform that information into forceful arguments. The deliberative process is thus *inclusive* only if each member of that political community is equipped with an adequate level of political functioning and adequate cognitive and communicative capacities to advance their claims, so that 'the silence [of those who lack the necessary cognitive and communicative skills to engage into deliberation] is [not] turned into consent by the more powerful deliberators who are able to ignore them' (Bohman, 1997, p. 333).

Thirdly, the deliberation of free and equal citizens in conditions of full inclusion is expected to lead, despite their plurality of opinions, to a *reasoned agreement* between the different parties: that is, an agreement that the participants accept on the basis of reasons which are convincing mutually acceptable to everyone. These reasons need also to be public, and people who

make decisions on the basis of these reasons and on behalf of others need to be accountable to them (Gutman and Thompson, 1996). This includes a sense of *mutual respect*. Ideas need to be discussed while respecting and taking into account other people's opinions.

Fourth, some deliberative theorists have advocated a substantive or epistemic conception of deliberative democracy, as no reasoned agreement could be independent of any criterion of truth (Cohen, 1996; Gutman and Thompson, 2002; Richardson, 2002). An agreement reached in conditions of equality, inclusion and reasonable pluralism is not a guarantee of the correctness of that decision. If for example a deliberative process between free, equal and reasonable citizens concludes that immigrants who have not resided in a country for more than five years are not entitled public benefits such as basic health care or basic primary education, then, even though that democratic decision would respect the ideal conditions of a fair deliberative process, it does not respect a substantive vision that every human being should have equal rights to a decent health and education system, whatever their nationality or race.

The normative ideal conditions highlighted by the deliberative democracy literature seem to provide some contents to the value of political freedom. But despite the insights that the deliberative democracy literature might bring, it does not appear to offer a necessary link between the exercise of political freedom and the enhancement of other freedoms for two major reasons. First, it is not clear how and where the ideal conditions of equality, non-domination, etc. are derived from. In fact, no justification is given to their provenance, beyond what can be agreed to in a hypothetical contract between free and equal citizens. Second, unless a requirement of truth-orientation is not specifically introduced, the exercise of political freedom under the fulfilment of all the other conditions would still not guarantee that other freedoms such as minimum levels of health and education for all would be secured.

A major characteristic of the literature of deliberative democracy is its procedural nature, namely that the principles through which people make decisions are independent of any conception of the good. Given that the capability approach to development is implicitly based on a substantive

conception of the good,[1] the exercise of political freedom would need to contain principles derived from a substantive conception of what is good for human beings. Although Sen advocated a broad consequentialist evaluation of development policies, he has also underlined that 'the capability approach does not claim to contain an exhaustive evaluation of what is relevant for well-being,' and that 'rules and procedures can for example be as important as freedoms and outcomes' (Sen, 1999b, p. 77). Given that the requirements for a legitimate political decision underlined by the deliberative democracy literature did not rely on any substantial view about the human good, I would like to explore another way in which the capability space can be supplemented by a procedural space.

4. A thick vague theory of political freedom

Aristotle's conception of practical rationality (*phronēsis*) offers an interesting approach to decision-making by mixing substantial and procedural features. It combines both a teleological approach to justice (being just is what leads to certain consequences) with a deontological approach (being just is what respects a set of principles). Two main scholars have sought to make Aristotle's concept of *phronēsis* relevant to contemporary decision-making, the natural lawyer John Finnis and the political philosopher Martha Nussbaum.

For Finnis, acting according to *phronēsis* or what he calls 'practical reasonableness,' involves that, 'in all one's deliberating and acting, one ought to choose those and only those possibilities the willing of which is compatible with integral human fulfilment.' (Finnis *et al.*, 1987, p. 128) In Finnis' natural law, human fulfilment is a matter of pursuing basic human goods, of which he distinguishes seven categories (Finnis, 1980; Finnis *et al*., 1987): life, health and safety; knowledge and aesthetic experience; meaning-giving and value-creation; harmony between and among individuals and groups of persons; harmony between one's feelings and one's judgement and choices; harmony between one's choices and judgements and one's behaviour (inner peace);

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[1] For a discussion on the extent to which the capability approach points towards a substantive conception of the good, see for example Arneson, 2000; Deneulin, 2002.

harmony between oneself and the wider reaches of reality (harmony with some more-than human source of meaning and value).

To this overall principle of practical reasonabless which is teleological (i.e. oriented towards the outcome of integral human fulfilment), Finnis associates requirements or principles that further specify the teleological procedure for ethical decision-making (Finnis, 1980, pp. 103-127): *No arbitrary preferences amongst values*: each basic human good has to be treated as an intrinsic good, whether one prefers it or not (e.g. it is not because one prefers knowledge to friendship that friendship is of no objective value); *No arbitrary preferences amongst persons*: basic goods are goods that any human being ought to be able to purse, this requires not only impartiality with respect to basic goods, but also impartiality among the human subjects who partake those goods (no discrimination with respect to race, gender, age, etc.); *Detachment and commitment*: in order to be open to all the basic human goods, one must be detached from one's own choices and commitments (avoiding fanaticism and avoiding indifference); *Efficiency within reason*: bringing about good in the world by efficient actions for their purposes, trying to have the lesser damages and greater benefits in the instantiation of a basic good (e.g. choosing the medicine that will both relieve pain and heal rather than a medicine that only relieves pain); *Respect for every basic value in every act or not choosing directly against a basic value*: one should not choose to do any act which itself does nothing but damage or impede a realisation or participation of any one or more of the basic forms of human good (yet if the pursuit of one basic good has unintended effects against another basic value, such a pursuit is legitimate); *Requirement of the common good*: favouring and fostering the common good of one's communities, and finally; *Following one's conscience*.

Finnis's requirements of practical reasonableness have been primarily designed in the context of law. They have however received some application in the context of development. Alkire (2002b) for example applied Finnis's principles of practical reasonableness for the evaluation of micro-development projects in Pakistan. Although Finnis' principles of decision-making might offer a way of supplementing the capability space with a procedural space, they remain focused at the individual level of decision-making, and not collective. For example, the

requirements of 'detachment and commitment' or 'following one's conscience' appear somewhat irrelevant to provide guidelines for government action. In addition, unlike Nussbaum's list of central human capabilities (Nussbaum, 2000b, pp. 78-80), the basic goods which constitute human fulfilment in Finnis' natural law do not provide normative criteria for development policies. Inner peace for example is not a basic good which can have prescriptive character as far as development policies are concerned.[2]

Martha Nussbaum has as well discussed the relevance of Aristotle's *phronēsis* for decision-making – the discussion was separate from her work on the capability approach. In a major paper entitled 'The Discernment of Perception: An Aristotelian Conception of Private and Public Rationality' (Nussbaum, 1990),[3] she draws three characteristics of *phronēsis*: the priority of the particular, perception of the context and deliberation. In her analysis, she does not however specify inherent principles, as does Finnis, and does not link her account of decision-making with an outcome-orientation. Her analysis of *phronēsis* has been more oriented towards a critique of instrumental rationality in law and economics (Nussbaum, 1995) than oriented towards providing insights for the promotion of human capabilities. In order to build an additional procedural space to the capability space in the evaluation of human well-being, the next paragraphs are bringing both Nussbaum and Finnis' accounts of *phronēsis* together, by linking Finnis' requirements of practical reasonableness to Nussbaum's characterisation of *phronēsis* and her central human capabilities.

The major characteristic feature of *phronēsis* is the faculty to take decisions in the realm of contingent and particular realities. It is only within the particular features of the context in which action is to be taken that decisions can be made. This context-sensitivity seems to be an absent condition in the deliberative democracy literature which focuses on a set of universal ideal conditions, without paying much attention to how these conditions can ever be relevant in particular situations, with their histories, conflicts, inequalities, in other words with all the messy

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[2] For a discussion of the differences between Finnis' basic goods and Nussbaum's central capabilities in terms of their prescriptive character for the evaluation of development policies, see Alkire, 2002a,b.

[3] These ideas were first developed in Nussbaum, 1978, appendix to essay 4, and in Nussbaum, 1986, chapter 10.

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character that makes up our human world. Given that decisions are always to be taken within the situation in which one finds oneself, acting according to *phronēsis* entails that the first step of decision-making consists of perceiving what is at stake in a particular circumstance, and perceiving whether an action is required. If so, one must then decide what sort of particular action will be the most suitable given the context in which that action is to be taken (*Nicomachean Ethics* 1109[b]20-23, 1126[b]2-5).

In Aristotelian ethics, being practically rational is not a matter of being under the control of a science characterised by general laws, or by abstract universal principles as in deliberative democracy theory. Reasoning has to adapt itself to the uniqueness and specificities of cases, because general principles, given their inflexibility, do no allow an understanding of all the complexity and singularity of concrete situations. That general laws will always fail in the domain of the contingent does not entail that principles do not exist, but it entails that principles have to be flexible and espouse the shapes of the context (*NE* 1104[a]1-10, 1107[a]29-33, 1137[b]13ff).

Although *phronēsis* is a practical rationality that responds to contextual features, it includes more than context-sensitivity, since it is a particular form of practical rationality that is guided by some knowledge of what is good within the particular situation. And in order to know what is good within a situation, one needs to know what is good beyond what is specific to a particular situation (*NE* 1141[b]14-20). For example, a doctor needs theoretical knowledge of what health is, as without that prior theoretical knowledge he would be like an archer who does not know which target to aim at. A doctor who knows the theoretical understanding that the human body functions like this or that, but fails to recognise what is good or what brings health to the particular body of the individual patient would not be a good doctor (*Metaphysics* 981[a]15-20; *NE* 1094[a]22-26, 1104[a]1-10, 1142[a]25-29). Translated into the capability approach to development, *phronēsis* implies that some theoretical understanding of the human good is needed, namely some understanding of what human well-being consists of, but that theoretical understanding needs to espouse the context in which a judgement is made. In that matter, in parallel to Aristotle's *eudaimonia* (happiness), Nussbaum's

account of central human capabilities, constitute such a 'thick vague' idea of what the human good consists of.[4]

It seems hence that the first *normative* requirement of the practical rationality underlying the exercise of political freedom is not as much a matter of meeting the requirement of freedom or equality, as a matter of judging (while being guided by a conception of the human good such as central human capabilities) which human beings are falling short of that good. It is a matter of judging who is lacking central human capabilities in the particular reality under judgement. Making decisions according to the perception of which people are falling short of a good human life and how they are falling short, can be called, the *requirement of priority*: when promoting well-being, one should give priority to promoting the well-being of those who are below a threshold level of functioning.[5] One has to note that this requirement of priority, although reminiscent of Rawls' maximin principle, is fundamentally different from it, in the sense that this requirement is oriented towards a certain conception of the human good (the aim of distributive justice is to promote central human capabilities), while the maximin principle is not teleological. The requirement of priority is a direct consequence of the thick vague theory of the good. If political communities exist for the sake of the good life, then decision-making within that community ought to have positive consequences upon the components of that good life (see for example *NE* 1103^{b}2-6, *Politics* 1252^{a}1-6, 1280^{b}30-40).

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[4] For her account of central human capabilities and the link with Aristotle's conception of the good life in terms of the exercise of virtues, see especially Nussbaum, 1988, 1993. Her theory is 'thick' because it deals with human ends across all areas of life, in contrast to Rawls' thin theory of the good which does not suppose such human end, and 'vague' because it allows for many concrete specifications and only draws an outline sketch of the good life (see for example Nussbaum, 1992). One has to note that Martha Nussbaum no longer considers her central human capabilities as a 'thick vague' theory of the good, but rather as the result of an overlapping consensus *à la Rawls*. See Deneulin (2002) for a discussion of the capability approach within the context of Aristotelian Social Democracy and Rawlsian Political Liberalism, and the extent to which the list of central human capabilities remains a thick vague theory of the good.

[5] See for example Parfit, 1997, for a discussion about the principle of priority vs. the principle of equality.

Inasmuch as any decision-making body is composed of human beings, the Aristotelian conception of practical rationality stresses that the perception of the context cannot be set in mechanical way, like a machine would respond to some data according to some pre-programmed algorithm. Inasmuch as the members of the decision-making body are 'flesh-and-blood deliberators whose judgment is the last word in reasoning' (Richardson, 1994, p. 178), this reasoning contains cognitive as well as emotional elements. The reasoning through which human beings make decisions is a *human* reasoning (NE 1139^{b}3-5). Therefore, emotions naturally come to play an important role in reasoning, and especially in the perception of the context. Emotions, such as the feelings that a person experiences given the lack of central human freedoms in someone else's life, may play a crucial element in perceiving the salient features in particular situations (*NE* 1106^{b}21-25; Nussbaum 1986, 1990, 2001; Sherman 1989; Richardson 1994, 2002).

Obviously, the danger of perception is that it may fail to be impartial and to treat each person as equal, by giving more importance to those whose lack of central human capabilities and sufferings have perhaps given rise to the strongest emotions. Also, emotions might not always lead to good decisions. For example decisions can be made on the basis of the emotional sentiments that a charismatic leader generates around his or her person. Therefore, as any policy decision will necessarily involve emotions, because such a decision is made by *human* beings, the decision-making process would need to be constrained by an additional requirement that rules out arbitrary decisions in the allocation of resources. Such a requirement could serve as an assessing element to judge the degree of arbitrariness behind people's choices regarding matters that affect their lives in the political community. This requirement could be called, the *requirement of non-arbitrariness*: when deciding about a policy priority (what dimension to pursue, and which groups of people to favour), reasons should be given to justify one's choice.[6]

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[6] This requirement is derived from the requirements of 'no arbitrary preferences amongst values' and 'no arbitrary preferences amongst persons' in Finnis' natural law.

Perception is not done for its own sake, or for the sake of the best specification of ends, but for the sake of action. A key characteristic of *phronēsis* is that it is a specific type of practical rationality that is guided by a conception of the human good which is plural and incommensurable. Given what has been perceived, the next step of *phronēsis* is to choose the means that will best pursue the specified ends, i.e., the means that will best promote the central human capabilities of those who are lacking them. Decision-making according to *phronēsis* requires that the discussion about ends cannot be separated from a discussion about the means to pursue them. Choices regarding means are linked to the underlying ends, and reciprocally, choices regarding ends are linked to the means that achieve these (*NE* 1112^{b}11ff., 1113^{b}3-5; Richardson 1994, 2002; Wiggins, 1980). Ends have to be specified and revised given the availability and feasibility means. Deliberation is a process of choice where means and ends mutually adjust themselves. Finding 'the easiest and best' (*NE* 1112^{b}17) is a matter of being open to the possibility of revising one's chosen ends in order to find other easy and better means. For example, a political community deliberates that the most urgent end to pursue is that of the primary education of girls, and allocates to that end a significant amount of public resources (such as increasing the number of schools and teachers, giving financial incentives to parents to send their girls to school in order to compensate for labour losses). However, if by pursuing that end through the agreed means has not achieved better results in terms of female education, because for example the girls might suffer from violence and humiliation at school, then the political community, following the requirements of *phronēsis*, would need to reconsider the means to achieve the desired ends, and even to reconsider the ends Perhaps, pursuing the end of promoting the capability of 'bodily integrity' might have to come first as a policy priority. This requirement of being able to revise ends if they do not appear feasible, and being able to choose the most adequate means given the ends that have been chosen can be referred to as the requirement of *ethical efficiency*.[7]

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[7] This requirement follows the 'efficiency within reason' requirement of practical reasonableness.

Finally, if the choice of ends and means are deeply intertwined, then the choice of means has to respect the nature of ends that these means are pursuing. Since an important aspect of human well-being is its incommensurable and irreducible nature, the deliberation process will have to respect that nature. And this entails that the choice of pursuing one component of human well-being should not damage another, what can be referred to as the *requirement of non-compensation*.[8] This requirement directly follows from the plural and incommensurable nature of the human good to be pursued (each central human capability is irreducible to each other, there are no possible trade-offs).

One could object that 'tragic' choices, where one central human capability can simply not be pursued without a *loss* in another, are often unavoidable. A typical example of tragic choice in development is that of the choice between building a hydro-electric dam in order to provide electricity to a region (which could provide better equipped health centres, increase agricultural production… and hence promote the freedoms of being nourished, being healthy, having employment, etc.) and displacing villages (and hence destroying the freedom of expressing one's culture). Nussbaum (2000a) has for example underlined that such tragic choices need not be tragic when appeal is made to human creativity, and other institutional arrangements found. In the case of the dam, more efficient uses of energy, or the use of other sources of energy, could perhaps be thought of.

Nussbaum has argued that Sen's capability approach would better meet its aim if one specified the valuable capabilities that policies ought to promote. This paper has gone beyond, by affirming that development policies would better meet the aim of Sen's capability approach if some content is given to the exercise of political freedom. If the freedom-approach to development is to keep the central role of the exercise of political freedom in promoting the capabilities that people have reason to choose and vlaue, one would need also to evaluate whether the exercise of political

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[8] John Finnis referred to the requirement of 'respect for every basic value in every act or not choosing directly against a basic value'.

freedom has been valuable or not, not only according to the outcomes it should normatively produce, but also according to the processes it should normatively respect. Introducing a procedural, and not only consequential, assessment of development policies, enables one to monitor to what extent political communities are *structured* in a way that the exercise of political freedom successfully promotes human freedoms.

Similarly to Nussbaum's list of central human capabilities, which had prescriptive character, the above requirements have a prescriptive character by proposing an evaluation guide of policy procedures. And similarly to Nussbaum's 'thick vague theory of the good', which provided a 'thick vague' idea of what policies should aim at, drawing on a vague outline of general human ends that ought to be specified further according to the local context, so does the 'thick vague theory of political freedom' suggested here. In no way can the four requirements derived from *phronēsis* be seen as an absolute and exhaustive set of requirements that the procedure of policy decision-making in each political community should follow. Each political community is left the space to further specify the requirements according to its own context.

5. *Concluding remarks*

One could not conclude this paper without dealing with a major concern, namely that letting policy decisions be guided by a certain procedure of decision-making is inconsistent with the demands of human freedom, and inconsistent with the spirit of democracy itself. Indeed, by assessing the quality of how people decide about matters that affect their own lives in the political community through evaluating to what extent their decisions have respected certain requirements, one deeply infringes on their freedom. People are somehow not allowed to exercise their political freedom the way they would wish so. Three reasons can be advanced as to why this concern need not be a concern. A first reason is that political freedom is only one aspect of human well-being, one among others.[9] If the exercise of political freedom of some leads to a situation in which others are denied other aspects of human well-being such as basic health care or a decent education, the

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[9] See for example Hurka, 1993; Kraut, 1999.

exercise of their freedom would be rightly curtailed by requiring that people make decisions according to a certain procedure of decision-making. A second reason lies in the fact that the decision-making body is 'reflectively sovereign' (Richardson, 1994, p. 178) in its decision, i.e., it retains the final rational say. Although following some requirements helps the decision-making body to take 'better' policies, there is no clear-cut solution as to what is the 'best' option, or as to what is the 'best' outcome of the deliberation procedure. The requirements of *phronēsis* are not an algorithm for action, since they involve a complex dialogue with the context in which they are to be applied, a dialogue which resists any formal codification. Given that 'there is obviously no simple formula for determining which means is easiest and best' (Richardson, 2000, p. 979), all that can be said is that a decision that respects all the requirements is morally 'better' than a decision that violates one or many requirements. And finally, a third reason of why linking the exercise of political freedom to a moral procedure does not go against human freedom is that the procedure is left 'thick vague', to paraphrase Martha Nussbaum, and leaves room for each political community to specify further the procedural requirements that their decisions will follow.

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