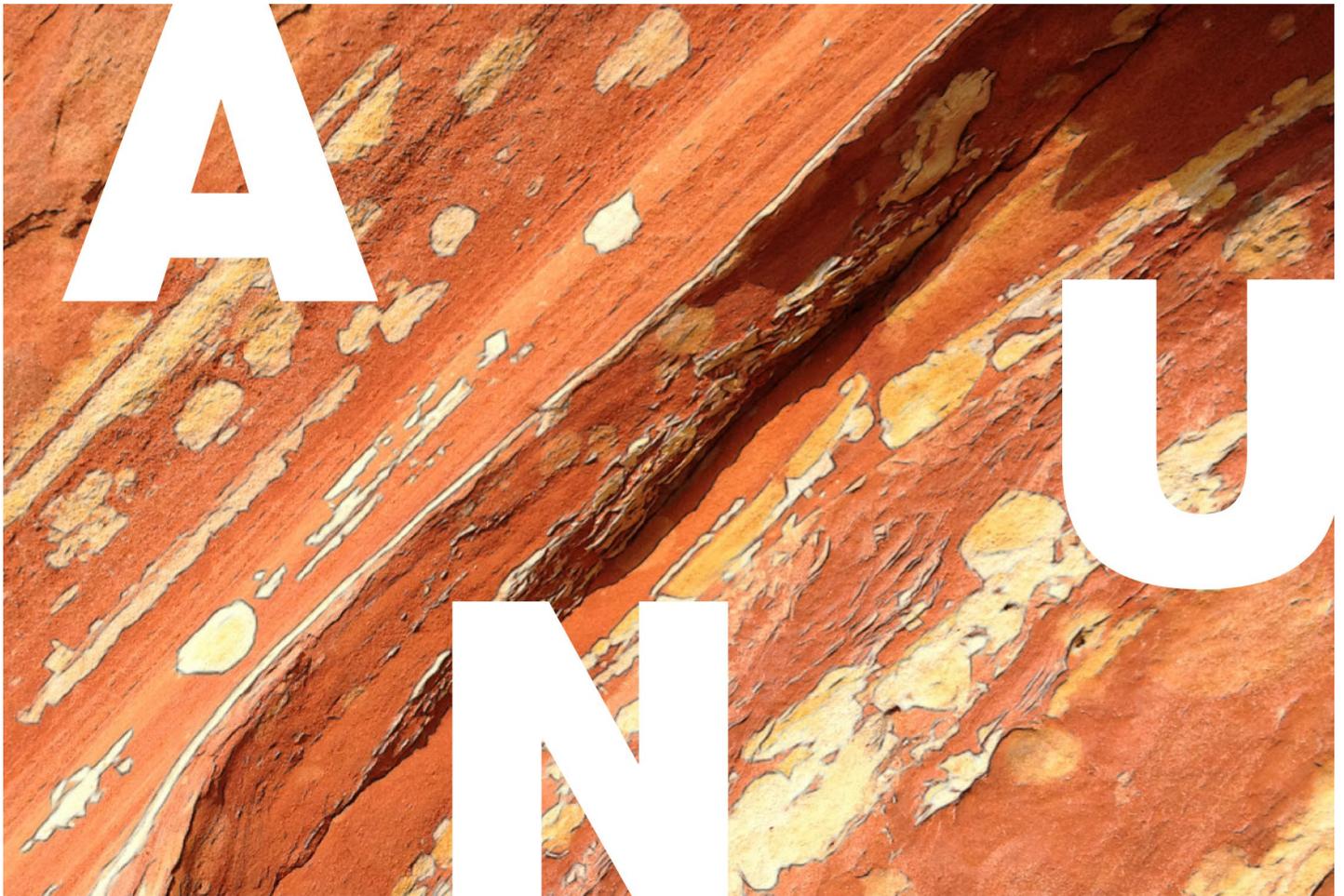




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A CRITICAL REVIEW OF THE  
CAPABILITY APPROACH IN AUSTRALIAN  
INDIGENOUS POLICY

E. KLEIN

Centre for  
Aboriginal Economic  
Policy Research  
ANU College of  
**Arts & Social  
Sciences**

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Dr Robert G. (Jerry) Schwab  
Director, CAEPR  
Research School of Social Sciences  
College of Arts & Social Sciences  
The Australian National University  
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# A critical review of the capability approach in Australian Indigenous policy

E. Klein

**Elise Klein** is a Lecturer in Development Studies at the University of Melbourne. She was previously a Postdoctoral Research Fellow at the Centre for Aboriginal Economic Policy Research, the Australian National University. [elise.klein@unimelb.edu.au](mailto:elise.klein@unimelb.edu.au)

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## Abstract

The capability approach has recently been used in Australian Indigenous policy formation. Of particular note is how it has been used in some instances to justify current paternalistic and directive policies for Indigenous Australians. These include behavioural conditionalities on state support and income management—policy apparatuses that aim to create individual responsibility and to re-engineer the social norms of Indigenous people. This interpretation of the capability approach is at odds with the writings of Sen, because it overlooks the core concepts of freedom, agency and pluralism. To examine this tension, this paper reviews the contestation between capability scholars and commentators on Indigenous policy, paying particular attention to four areas: human capability vs human capital, deficit discourse, individual responsibility, and the ends and means of policy. Finally, to reinvigorate the capability approach in Australian Indigenous policy, six areas are suggested in which the capability approach could be used in the future.

**Keywords:** capability approach, Indigenous policy, responsibility, freedom, agency, pluralism

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## Acronyms

ANU            The Australian National University

CAEPR        Centre for Aboriginal Economic Policy Research

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## Introduction

The capability approach has recently gained some prominence in Australian Indigenous policy discussions and formulations. Of particular note is how the approach has been used in some instances to justify current paternalistic and directive policies for Indigenous Australians—specifically, the use of behavioural requirements relating to state assistance and compulsory income management. These paternalistic policies aim to create individual responsibility and to re-engineer the social norms of Indigenous people. These sets of contemporary policies are situated within what some describe as the current neoliberal and neopaternal swing of social policy in Australia more generally (Altman 2010, Neale 2013, Stanford & Taylor 2013). Whereas paternalistic policies restrict a person's liberty and autonomy for the sake of their own good (Deneulin 2002), neopaternalism is focused primarily on soft power and shaping subjectivities, specifically attempting to 'control peoples' patterns of behaviour in what are perceived to be their own interests' (Buckmaster et al. 2012:18). A feature of both paternalistic and neopaternalistic approaches is that the ends justify the means. Paternalism is in stark contrast to the capability approach, where Sen and other capability scholars actively eschew paternalism. Within the capability approach, the means of policy is just as important as the ends (Sen 1999, Alkire 2002, Nussbaum 2011).

Although there is no definitive account of the capability approach agreed to by all capability scholars, the concepts of freedom, agency and pluralism underpin the approach. That the approach has been implicated in what some suggest are paternalistic measures calls for an analysis of its interpretation in Australian Indigenous policy. I will argue that the interpretations of the capability approach used in Indigenous policy in Australia have overlooked the core concepts of freedom, agency and pluralism, and are inconsistent with Sen's account.

To make such an argument, I will firstly provide an overview of the capability approach. I will then discuss the use of the capability literature in Australian Indigenous policy, highlighting some of the tensions with capability theory, and conclude by suggesting some avenues where a full reading of the capability approach could help orientate the policy landscape towards social justice and Indigenous self-determination.

## The capability approach

The capability approach is a normative evaluative framework in which social arrangements should be analysed for their ability to support capabilities. It emerged after Sen (1979) showed how contemporary political and moral philosophy writings on equality did not sufficiently answer the fundamental question 'inequality of what?' In response to the works of John Rawls (1971), Ronald Dworkin (1981a,b), Thomas Nagel (1979) and Thomas Scanlon (1988), Sen (1995) argued that normative theories of justice, deprivation and inequality always required the equality of something—equality of liberty, resources or utility. Sen's argument was that focusing on equality in this way overlooked the heterogeneity and diversity of people: the many different ways in which equality can be judged. For example, by just focusing on particular resources (e.g. liberty or economic resources), it was not clear that all people, given differing abilities, would be able to convert such resources into personal gain (Sen 1995).

Sen instead proposed that social arrangements should be assessed as human freedoms, where human freedoms are not just the achievement of functionings people value or have reason to value but also the *ability* of people to pursue them in the first place. **Functionings** are actual beings and doings people may undertake—for example, being nourished, riding a bike, being educated and being healthy. **Capabilities** are the real ability or freedom to achieve sets of functionings—for example, the ability to be nourished, the ability to be educated and the ability to be healthy. Put another way, capabilities are the freedoms people have to undertake doings and beings (functionings) they 'value and have reason to value' (Sen 2009:276). Consequently, economic and social policy should exist as 'a process of expanding the substantive freedoms that people have' (Sen 1999:297).

In this sense, economic advancement is only pursued as a means to the end of human wellbeing. This approach stands in contrast to other normative development approaches that see human beings as ends to economic growth. Development as utility maximisation is also queried within the capability literature (where utility is defined as pleasure, desire or happiness), because utility does not account for adaptive preferences and can be restrictive when making interpersonal appraisals of deprivation or wellbeing (Sen 1995).

The application of the capability approach in Australian Indigenous policy has diverged from the broader corpus of the capability literature, which is founded on three central concepts: freedom, agency and pluralism. I will

discuss the use of freedom, agency and pluralism by capability scholars, before going on to examine how these three concepts have been interpreted differently in contemporary Australian Indigenous policy. What follows illuminates how such different interpretations have led to very different sets of policies. By highlighting the conflicting interpretations, I aim to enable a more accurate application of the capability approach within Indigenous policy in Australia.

### *Sen's notion of freedom*

Within the capability approach, Sen defines freedom in two distinct ways. Firstly, he explains the usefulness of expanding human freedoms through opportunities or the 'substantive freedoms' (Sen 1999:3) that the members of a society enjoy. Secondly, Sen defines freedom through empowerment and agency, which he calls 'process freedoms' (Sen 2002:625). Process freedoms are the freedom for people to undertake initiatives they value—it requires their agency. Process freedoms are important because they 'enhance the ability of people to help themselves and also to influence the world, these matters are central to the process of development' (Sen 1999:18). Sen also considers agency and systemic process freedoms such as public deliberation, and civil and political liberties to be central in creating social change, where the process of achieving such freedoms has intrinsic importance, independent of the outcome. Through defining freedom in these two distinct ways, the distinction between achievement of outcomes and ability to achieve outcomes becomes clearer. In the capability approach, the means are just as important as the ends of development and related policies.

### *Agency*

Often, policy is reduced to include just the realisation of functionings (outcomes or beings and doings, as used by capability scholars). Sen's addition of agency means that the process of policy is just as important as the outcome. Agency to Sen means that there is freedom for people to achieve particular outcomes if they are desired and valued. Sen (1999:53) states, 'the people have to be seen ... as being actively involved—given the opportunity—in shaping their own destiny, and not just as passive recipients of the fruits of cunning development programs'. Agency is the ability to act on values or, as Sen puts it, 'what a person is free to do and achieve in pursuit of whatever goals or values he or she regards as important' (Sen 1985a:203).

Although Sen uses a narrow definition of agency, focusing mainly on agency that is purposeful and goal directed

(Klein 2014), his commitment to process freedoms being at the heart of all processes of development and social change is significant. The proposition is that (Alkire 2008:29):

social arrangements should be primarily evaluated according to the extent of freedom people have to promote or achieve functionings they value. Put simply, progress, or development, or poverty reduction, occurs when people have greater freedoms.

When thinking about Australian Indigenous policy, the key question from the capability approach lens becomes, precisely, how free are Indigenous Australians to live the lives they value and have reason to value?

According to Sen (1999), agency applies to action at both individual and collective levels. The individual level refers to an individual acting on what they value or have reason to value. The collective level refers to democratic deliberation, public reasoning and collective movements. Sen calls for participatory public deliberation as being fundamental, and a 'procedural rather than a normative response' (Alkire 2002:143). What this means is that institutions and structures need to be procedurally just, and not solely outcome focused. Consequently, there is a clear divergence between the capability approach and neopaternalistic policies within Australian Indigenous policy. The capability approach maintains that the process of policy is just as important as the outcome.

### *Pluralism*

Human diversity is a driving force behind Sen's initial work on inequality. Following this, capability scholars maintain that processes of development should be plural and never uniform or predetermined, overriding the needs of differing cultural and social contexts (see Sen 1995, Alkire 2002, Nussbaum 2011). In particular, Sen purposefully avoids articulating any specific set of capabilities, calling for the need for process freedoms such as agency and public deliberation to help identify lists of capabilities for specific social milieus. Explicitly, Sen's capability approach aims to only specify 'a space in which evaluation is to take place, rather than proposing one particular formula for evaluation' (Sen 1988:18). For Sen, the whole notion of making value judgments by listing important capabilities competes with the pluralism that he values and defends.

Notwithstanding, pluralism in the capability approach rests heavily on democracy, deliberative processes, and the ability of groups and institutions to fairly compile lists.

The risk, of course, is that already marginalised voices again will be isolated in such a process. In the case of Indigenous Australians, this is particularly poignant—it is precisely the democratic institutions of settler society that have continually colonised them (Wolfe 1999).

Nussbaum takes a different approach to pluralism, whereby she argues that it is precisely because there is a risk that marginalised voices will be ignored by the wider populace in democratic processes that a broad list of 10 universal capabilities must be identified. Nussbaum (2006) argues that her list of innate capabilities is broad enough to be relevant to all societies and cultures. The list includes the capabilities of life; bodily health; bodily integrity; senses, imagination and thought; emotions; practical reason; affiliation; other species; play; and control over one's environment. The applicability of such a list, she argues, 'isolates those human capabilities that can be convincingly argued to be of central importance in any human life, whatever else the person pursues or chooses' (Nussbaum 2001:74). Yet Nussbaum, trying to safeguard capabilities to ensure cultural and social integrity, and to ensure that the approach is as pragmatic as possible for policy makers, still risks paternalism (Deneulin 2002). By identifying what she sees as 10 capabilities that are universally applicable, Nussbaum endorses a level of homogeneity within the capability approach. This can be illustrated through the inclusion of 'practical reason' as one of the universal capabilities. This capability has strong roots in the western philosophical tradition, and can exclude and compete against other philosophies and world views (Robeyns 2003, Charusheela 2009).

Furthermore, such a universal list brings up specific problems relating to Indigenous justice in Australia. Altman (2009) illustrates the problems with universal lists in Australian Indigenous policy by showing that creating lists runs the risk of privileging dominant and mainstream ideas of valuable beings and doings. One example is the reduction of Indigenous wellbeing to a non-Indigenous set of socioeconomic indicators, as found in current government policy frameworks. While a universal list has pragmatic attractiveness and makes it easy for policy makers to articulate specific capabilities to focus on, it would seem that Sen's version of the capability approach better reflects the ideals of agency, pluralism and freedom. Sen maintains that having a universal list of basic capabilities misses the opportunity for public deliberation and democratic process freedoms in compiling lists. This concerns Sen because, not only are the instrumental value and rights of those who will be affected by the policy overlooked, so is the intrinsic value of including people in the processes affecting

their lives (Sen 1999). Although many are sympathetic to Nussbaum's approach, Sen's version is most widely applied in development policy.

### *Social structures, power and the capability approach*

Sen is not ignorant of the complexity between structures, culture and agency. He has written about the human rights-based approach and the capability approach being mutually reinforcing (Sen 2005, 2009). Specifically, human rights can play a role in holding states and institutions to account by providing valued capabilities to the people they represent. For example, the United Nations Declaration on the Rights of Indigenous Peoples sets a standard to direct and hold democratic institutions in Australia to account. While many human rights complement capabilities, in some cases process freedoms in the achievement of such human rights can actually be overlooked (as some rights can be forced on people). One such example of the possible tension between the human rights approach and the capability approach is the enforcement of the right to work, where people are coerced by welfare-to-work policies into employment.

Although Sen has an implicit concern with power relations and unjust social structures, caution must nonetheless be used when applying collective process freedoms such as deliberation and democracy. This is because unjust relations of power and social structures can be reproduced through collective process freedoms without a full account and theorisation of societal structures, hegemony and power in the shaping of agency and society (Otto & Ziegler 2006, Zheng & Stahl 2011). To put it differently, the racialised, liberal and economic constitution of society tends to structure agents' options, and hegemony acts to exclude other options (Gramsci 1971, Laclau & Mouffe 2001). Critical social theories could remedy such a dilemma and complement the capability approach as they specifically focus on the structural conditions of, and dialectic with, individual and collective agency. Moreover, critical social theory scholars focus their research on how social structures and power dynamics enable or restrict emancipation—that is, the discursive character of social structures that limit personal and collective freedoms (Zheng & Stahl 2011). Without such critical social theory, the pluralism and flexibility built into the capability approach 'creates scope for more casual and indeed opportunistic appropriations and interpretations' (Sayer 2012:582).

## The use of the capability approach in Australian Indigenous policy

Since the 1990s and the turn of the 21st century, there has been a movement away from ‘human diversity and choice’, turning back to guardianship principles in policy (Sanders 2009). Influential in this shift have been the writings of Noel Pearson, especially his monograph *Our right to take responsibility* (2000), and the Cape York Institute’s *From hand out to hand up* (CYI 2007). Pearson argues that past government welfare policies have created a ‘passive welfare’ (Pearson 2000:21) dependence because they required no reciprocity from Indigenous peoples. The argument follows that contemporary policy targeting Indigenous peoples must now champion ‘responsibility and reciprocity’. Interventions following this logic emphasise the individual taking responsibility for their life, and place less emphasis on the failure of the state and services to provide support to Indigenous people to live the lives they value.

Pearson (2000) and the Cape York Institute (CYI 2007) drew on the writings of Sen (1999) in *Development as freedom* to propose contentious welfare reforms to instil responsibility. Reforms included attaching behavioural conditions to welfare payments, and using income management and activation strategies to get children in school, and Indigenous people in training and what he calls ‘real jobs’. Pearson used Sen’s writings to justify the need to create a sense of individual responsibility and to establish basic capabilities in the communities, all through paternalistic measures. The reforms were initially trialled, with Australian and Queensland government funding, in four Indigenous communities in Cape York, far north Queensland; the trial is known as the Cape York Reform Trial.

Since being published, Pearson’s welfare reform program has enjoyed broad support within the Australian and state and territory bureaucracies and governments. These policy actors in various iterations have used the ideas from the Cape York Reform Trial in their broader Indigenous policies. Furthermore, the influential ideas of Pearson underpin the development logic used in the Empowered Communities initiative (Empowered Communities 2015). This initiative, headed by Pearson, aims to extend the Cape York Reform Trial in a further seven Indigenous communities across Australia. Finally, the 2014 Forrest review also draws heavily from Pearson’s approach in its highly controversial national Indigenous employment and training review. The Forrest review accepts Pearson’s welfare reform strategies as a key way to accelerate Indigenous participation in work and training (Forrest 2014).

Although supposedly informed by Sen’s work on the capability approach, these policies are inconsistent with his writings and the broader international community of capabilities scholars because they miss its core concepts of freedom, agency and pluralism. Given the influence of Pearson, and the shift in contemporary Indigenous policy towards neopaternalism and economic rationalism, there is a need to examine interpretations of the capability approach and clarify tensions. This will open up new avenues for the capability approach to be appropriately applied to Indigenous policy in Australia.

Four major deviations from Sen’s notions of capabilities in the context of Australian Indigenous policy are explored in detail below.

### *Human capability, not human capital*

One significant misreading of Sen’s approach in Australian Indigenous policy is the conflation of human capital with human capabilities. For example, in the Forrest review, the author articulates the aim to ‘build capabilities, dismantling the cash barbeque and eliminating disincentives’ (Forrest 2014:vi). The ‘cash barbeque’ refers to the perceived wasting of resources on initiatives providing opportunities for Indigenous people to pursue valued capabilities beyond workforce integration. The Forrest review lists more than 200 recommendations to build human capital in Indigenous people. Underpinning the Forrest review is the belief that Indigenous wellbeing is best achieved through integrating people into the market economy. Although it is fair to argue that the choice to take part in the Australian market economy could be a valued capability, the argument that valued capabilities are only those providing human capital is a distortion of Sen’s ideas. Sen (1999:295–296) himself argues that ‘human beings are not merely means of production, but also the end of the exercise’. Thus, capabilities cannot be restricted to what is necessary to feed the growth economy. Instead, what is most vital to human flourishing are capabilities that people value and have reason to value, which may or may not be capitalist in function. Instead, development is freedom: the freedom to live valued lives.

### *Deficit discourse and ‘lacking’ capabilities*

Many policy actors have an underlying belief that Indigenous agency is severely lacking and that social norms of Indigenous people need to be changed (Buckmaster et al. 2012). This ‘deficit discourse’ is a mode of thinking that frames Indigenous agency in a narrative of negativity and insufficiency (Fforde et al. 2013). In the context of Australian Indigenous policy,

policy initiatives firmly placed in a discourse of deficit can be wary, disparaging and dismissive of Indigenous agency, and efforts to create social and personal change. Furthermore, deficit discourse can be paternalistic, involving a misinterpretation of the capability approach, and the justification of behavioural requirements on state assistance and related sanctions.

In his 2011 lecture at Griffith University, public intellectual Noel Pearson (2011) stated:

In the words of Amartya Sen, 'the capabilities [are those] to choose lives they have reason to value'. That is why we champion welfare reform. Because we want our people to have capabilities to choose lives they have reason to value.

Yet the capability literature shows a major divergence from Pearson, where there is a dialectic between the 'lives *people value*' and the 'lives *people have reason to value*'. In the capability approach, both need to be deliberated and debated in the public domain. Pearson, in focusing on the phrase 'lives they have reason to value', completely overlooks the process freedom of agency in living lives people *actually value* (see also Pearson 2005). Furthermore, in linking welfare reform and punitive measures with capability realisation, Pearson seems to suggest that Indigenous people either do not have capabilities or that the capabilities they do have are insufficient. Both dismiss Indigenous agency in two ways.

Firstly, the belief that Indigenous people do not have capabilities that could enable them to choose lives they value or have reason to value undervalues how everyday Indigenous people are agents. For example, Indigenous people negotiate the differing and sometimes competing needs and demands of both Aboriginal and settler societies every day. In her ethnography of the Ngaanyatjarra lands, traversing South Australia, Western Australia and the Northern Territory, Inge Kral (2012:232) shows how Indigenous youth continually act in conflicting realities where they must 'balance the pressure of local sociocultural obligations and the expectation that they will follow in the footsteps of the older generation, with the pressure to participate in wider Australian society'. Indigenous people constantly act as change agents to contest and shape the worlds around them. For example, Kral (2012) shows how young people under pressure to balance the 'hybrid identities' (232) of living in Indigenous and non-Indigenous societies are able to create change in their communities through engaging with new technologies. Further, Schwab and Kral (2014) document the Warlpiri people who, dissatisfied with the lack of mainstream adult education, made a commitment

to invest a portion of royalty monies from mining activities into locally determined education, training and community development programs for people in their own communities. These 'Learning Community Centres' have become a benchmark in not only adult education but also Indigenous learning and community development more broadly.

Secondly, deficit discourse can overshadow many current capabilities held by Indigenous people, especially Indigenous people living on country. Living on country requires an array of highly refined and skilled capabilities such as (but not limited to) the ability and permission to have a spiritual connection to country; the ability to know the ways and stories of the country, including the people, animals and plants; and the ability to manage ecological systems of the country. Most importantly, such capabilities are central to people's wellbeing. Dockery (2011) demonstrated a positive link between Indigenous Australians' attachment to their traditional cultures and their wellbeing, asserting that traditional cultures need to be preserved and strengthened if wellbeing is to be improved. It can be disempowering and oppressive to overlook and undervalue valued capabilities just because they are not valued or seen as vital within Australian settler society. A contemporary film that beautifully illustrates this point is *Charlie's country*, which skilfully depicts the range of capabilities held by the Indigenous man Charlie. Living in a remote part of Australia, Charlie has the ability to hunt, fish, care for country, have a spiritual connection with the land, speak his traditional language, tell the stories of the *tjukurrpa* (Aboriginal Dreaming), teach younger people traditional law, look after his family even though they have been forced off their land and placed in town camps, and negotiate the contestation of world views between Indigenous and non-Indigenous actors. The tragedy that unfolds is the systematic and constant dismissal of Charlie's capabilities and efforts by actors of white settler society, such as the police, service providers, government officials, medical professionals and the media. For Charlie and many other Indigenous Australians, particularly those living in remote communities, their capabilities are not recognised in mainstream policy debates as core to their wellbeing, especially compared with the ability to be literate in English, to be numerate, to hold employment in the mainstream labour market and to undertake workplace training. Rendering valued and highly refined capabilities invisible, or disciplining agency with punitive welfare reform measures undermines what valuable freedom means to many Indigenous people.

### *Capability as individual responsibility*

Where deficit discourse is the starting point for policy, there is an implicit expectation that Indigenous agency will be dysfunctional (Fforde et al. 2013). Consequently, policy makers and policy think tanks have identified the lack of individual responsibility as a key feature of Indigenous dysfunction in Australia. The writings of Sen have been used to justify these interpretations, but such interpretations should be treated with caution for two reasons.

Firstly, critiques of contemporary Indigenous policy seem to either misinterpret Sen's writings or use them out of context. For example, authors from the Cape York Institute, which implemented welfare reform measures in far north Queensland communities, discussed Sen's writings in *From hand up to hand out: Cape York Welfare Reform Project* (CYI 2007). In this report, capabilities are defined as 'the sum of opportunity plus responsibility' (CYI 2007:8), effectively reducing agency to responsibility. Yet Sen and other capability scholars regard capabilities as the ability or freedom to undertake doings and beings people value or have reason to value (Sen 1999). This is very different from responsibility, since to include responsibility in the definition of capabilities would imply there is a constant norm to be responsible—which would conflict with Sen's commitment to plurality and agency. Sen (1999) does not dismiss responsibility, but he does not see it as an in-built and static functioning of capability sets. For Sen to justify the prominence of responsibility as a central capability, it could only be for a specific context that was justified through sufficient public deliberation. This has been shown not to be the case (Martin 2008). Sen (1999:284–285) qualifies his view on individual responsibility:

... the substantive freedoms that we respectively enjoy to exercise our responsibilities are extremely contingent on personal, social and environmental circumstances ... The alternative to an exclusive reliance on individual responsibility is not, as is sometimes assumed, the so-called nanny state. There is a difference between 'nannying' and individual's choices and creating more opportunity for choice and for substantive decisions for individuals who can then act responsibility on that basis ... The arbitrarily narrow view of individual responsibility—with the individual standing on an imaginary island unhelped and unhindered by others—has to be broadened not merely by acknowledging the role of the state, but also by recognizing the functions of other institutions and agents.

What this passage shows is that, for Sen, individual responsibility necessitates opportunity freedoms and process freedoms. To Sen, this is applicable in both the global south and the global north (not just the global south, as inferred by Pearson [2007]). Therefore, placing the focus on the individual is inconsistent with Sen's approach, which insists on two necessary preconditions of the individual if responsibility is to be demanded: 'adequate means and power to act and real freedom to choose one's way of living' (Bonvin 2008:368). According to the capability literature, people cannot be held responsible if they are not supported with the capacity to act. Specifically, 'without the substantive freedom and capability to do something, a person cannot be responsible for doing it' (Sen 1999:284). What this means is that, within the capability perspective, people cannot be sanctioned for not turning up to school if the school learning environment is inappropriate or oppressive. Similarly, sanctions on people for not being employed when there is limited or precarious employment are problematic.

Secondly, the push for individual responsibility in Indigenous policy has a tendency to follow on from the libertarian belief that Indigenous people (and all people) can be blamed for their situations. Yet Sen's account of individual freedom does not define agency as free will and as separate from social processes, oppression and power (Sen 1999). Thus, individual irresponsibility as a failure of agency is completely at odds with Sen's approach to agency and freedom. Sen's understanding of social processes is far more sophisticated. He is acutely aware of the use of responsibility to further political agendas, where 'that thought [individual responsibility], in one form or another, seems to move many political commentators and the idea of self-help fits well into the mood of the present times' (Sen 1999:283). Bulloch and Fogarty (no date:9) show how the misinformed idea of development as freedom is being deployed 'with a broader pre-existing set of discourses that entreat Aboriginal and Torres Strait Islander people to conduct themselves as liberal subjects'. Specifically, there is an assumption that poverty and vulnerability stem from a failure to act in a responsible and disciplined manner—'the history of Indigenous affairs in Australia is replete with examples of paternal state practices intended to engineer free individuals' (Bulloch & Fogarty, no date:11).

The alternative view is that Indigenous people's agency is not irresponsible. It is that the functionings in the policy makers' spotlight are enforced with little regard for the agency and values held by the people the policies are directed at. For example, if people felt that the types of schooling, training or employment offered

were valuable, they may turn up. Instead of forcing and coercing Indigenous people into very specific and narrow ideas of wellbeing, an alternative approach would be to place Indigenous agency at the centre of the process, developing policy and programs at a local level that are valued by the broad populace of Indigenous people.

### *Ends justify the means—imposing preselected ‘basic’ capabilities*

The capability approach has also been used to justify the use of paternalistic measures to impose a set of predetermined ‘basic capabilities’. The Cape York Institute (CYI 2007) and Watt (2013) both argue that Sen has claimed that education and health are basic capabilities for choice. However, what is missed by these authors is that, when Sen has articulated any specific capability, he has only done so to illustrate how such a capability is important in a particular situation—it is not meant to be universally digested. Even Nussbaum with her universal list has advocated strongly for individual and collective process freedoms in the adoption of her broad list of 10 capabilities. To Sen, agency and freedom are paramount at both normative and descriptive levels. Two points relate to this.

Firstly, at a normative level, Sen has shown in his writings that, to put agency and people first in the process of development, no prescribed idea of universal ‘basic’ capabilities can be justified. Instead, Sen calls for the use of agency and public deliberation to grapple with what capabilities should be identified for context-specific situations. This is an argument that he has maintained with other prominent scholars such as Nussbaum for more than a decade (Sen 1985b, 1995, 1999, 2005, 2009). The universalisation of capabilities is rejected by Sen (2005:158):

The problem is not with listing important capabilities, but with insisting on one pre-determined list of capabilities, chosen by theorists without any general or public reasoning. To have such a fixed list, emanating entirely from pure theory, is to deny the possibility of fruitful public participation on what should be included and why.

Yet the Cape York Institute (CYI 2007) advocates for basic standards of formal literacy and numeracy capabilities across Australia,<sup>1</sup> referencing Sen to claim that they are basic and required to achieve other capabilities more generally. This argument has paved the way for using paternalistic means to achieve such ends, such as behavioural requirements attached to welfare,

employment activation strategies, and sanctions such as income management.

Secondly, justifying the ends over the means denies the instrumental and intrinsic importance of agency and public deliberation in the policy process. Sen appreciates the ongoing reflective process in which sets of capabilities are formed. His account of the capability approach clearly shows that the process of development is just as critical as the outcomes produced. Yet broad and diverse Indigenous involvement and agency in the formation of policy are overlooked. For example, according to Phillip Martin (2008), an employee of Cape York Partnerships, the community engagement phase undertaken before the Cape York Welfare Reform Trial was proposed to the Queensland Government in 2007 was a process more to convince local people of the merit of preconceived policies and principles than to inform the policies themselves, and allow deliberation and community participation in such discussions. Moreover, in the 2012 scoping study report for a program put forward by the Wunan Foundation (2012) as part of Empowered Communities, the five community requirements were discussed with only 2.35%<sup>2</sup> of the Halls Creek Indigenous community members. These agreements required the opting-in of all Indigenous people living in Halls Creek and required that:

- children attend school every day and on time, and parents are actively involved in their children’s education
- children and those who are vulnerable are cared for and safe
- capable adults participate in training or work
- people abide by the conditions related to their tenancy in public housing—that they maintain their homes and pay their rent
- communities tackle issues of domestic violence, alcohol and drug offences.

Such a low engagement rate in developing these community requirements makes it hard to justify the claims of ‘community support and participation’ made in the scoping study. Further, of this 2.35%, 29.4% of participants disagreed with the full model to impose the five key requirements and related sanctions (Wunan Foundation 2012:39). This limited consultation and overlooking of broad Indigenous agency and deliberation (what Sen calls process freedoms) have significant implications regarding the claims of Indigenous-led development—firstly, because the conclusions drawn may not necessarily align with the majority of people’s aspirations and values, and, secondly, because the

five requirements set to be imposed have not been deliberated and yet are portrayed as widely accepted.

## Reviving the capability approach to Indigenous policy in Australia

What I have argued so far is that the capability approach implies that all members of society should be able to choose between valuable capabilities. This approach differs from more punitive and paternalistic measures that call for people to adapt their preferences to existing opportunities or, in the case of Australia, the aspirations of dominant settler society (Bonvin 2012).

The capability approach is inherently plural and can contribute to and shape Indigenous policy in Australia. While some critics of the capability approach have argued that it neglects issues of power, hegemony and neoliberalism, I agree with Sayer (2012) that stopping at such a critique and failing to marry the merits of the capability approach with critical social theory undermines the contribution that the capability approach could make to effective Indigenous policy in Australia.

The capability approach can guide Indigenous social policy in six areas. The first two are welfare-to-workfare and labour force activation strategies, which are increasingly the direction in which Indigenous policy is focused. The final four areas are broader avenues for further policy and research.

### *Analysing welfare-to-workfare policies*

The capability literature shows how the push for welfare-to-workfare policies is counterintuitive in terms of supporting wellbeing. Firstly, workfare policies assume that the capability to work in the market economy is the essence of Indigenous wellbeing, overlooking the plethora of other possible capabilities essential for wellbeing (Bonvin 2012). This is not to say that no Indigenous people want to work in the market economy—of course, some do and should be free to do so. The point being made here is a different one, specifically commenting about the process in which policy is designed to get all Indigenous people into the mainstream labour market.

Secondly, the assumption behind welfare-to-workfare policies is that welfare dependency undermines people's will to work. This has certainly been argued by Pearson (2000:21) who, when considering Indigenous people and welfare, stated that 'dependence on passive welfare is our most urgent problem'. Pearson calls

welfare 'passive' because he sees people on welfare not being required to reciprocate the right to social security—especially in finding other alternatives such as mainstream employment. The distinction made earlier between human capital and human capabilities relates to this approach to workfare, particularly since the capability approach:

... does not privilege one option over the others ... It contends that the very process of defining the scope and content of work is a matter of social choice that is to be settled in a context-specific way, and not in absolute or universal terms. (Bonvin 2012:12)

Thirdly, the use of behavioural requirements attached to welfare and associated tools, such as compulsory income management, used for those who fail to meet such conditions, is also not consistent with the capability perspective. According to Bonvin (2014:10):

If people's values or preferences are to be taken seriously, then all constraining approaches coinciding with the imposition of certain programs or measures on non-compliant beneficiaries may be considered as problematic in a capability perspective.

Behavioural requirements relating to state assistance and sanctions aim to correct deficient and devious agency through restricting choice. The focus of Bonvin in the above passage is on perceived dysfunction needing to be corrected, all the while overlooking the agency people undertake to negotiate the world around them. These policies neglect not only the process elements of freedom but also the opportunity aspect and substantive freedoms people can enjoy, by restricting the options they can achieve based on the behavioural conditions set. Behavioural requirements on state assistance and sanctions also problematise the individual through what Robeyns (2005) calls a methodological individualism lens, which only looks at the individual and neglects any examination of the social arrangements that exist or do not exist to explain the individual. For example, behavioural requirements enforced by the government—such as that children must go to school—neglect to consider the failure of the educational and learning environments provided by schools and the state (Kral 2008, 2012 ).

### *Analysing activation policies*

Activation strategies are initiatives and incentives to nudge and push people towards specific policy outcomes. In the case of Australian Indigenous policy, activation strategies are used in employment and

education. In the era of neoliberalism, activation policies are couched in an ‘implicit and undisputed view of what objectives responsible individuals should pursue ... acting responsibly coincides with getting people back to work as quickly as possible’ (Bonvin 2008:367). One way in which activation is used in Australian Indigenous policy is in employment and training, where policy aims to ‘activate’ Indigenous people into specific jobs and training. For example, a national review of Indigenous training and employment has now recommended that all training available to Indigenous people across Australia must be in line with industry needs (Forrest 2014). This approach is especially problematic for Indigenous people living in remote communities where employment opportunities are severely limited or non-existent (Altman 2015). Moreover, from a capability perspective, several more issues concern activation strategies—strategies that incentivise mainstream employment and training. Firstly, and as addressed earlier, such an approach restricts the kinds of capabilities and functionings people can get in training to those only in line with human capital needs according to the market, which may or may not be valued by the agent. This is not to say that capital-related capabilities are not valued, but, because there is no deliberation, they exclude some capabilities—especially those held valuable by people living remotely on country. The capability approach shows how these employment activation strategies are not sufficient because they do not take into account meaningful or valued work, which may or may not be inside the market economy. Secondly, it is problematic to enforce people into industry-specified jobs that have precarious conditions, such as workers being exposed to the full brunt of global economic forces (Carpenter et al. 2007, Standing 2011). Thirdly, the capability to work should include an ‘exit’ option, whereby the worker has an option to leave a degrading working situation, with dignity intact (Bonvin 2012).

### *Development as human flourishing, not economic growth and integration*

The capability approach has the ability to challenge outdated and restrictive definitions of development in Australia. It maintains that expanding valued capabilities is the purpose of development, and that institutions (including the state and economy) should only exist to support capabilities that people value or have reason to value. Sen’s normative evaluative framework, however, holds that wellbeing is diverse (a plurality of capabilities) and is committed to institutions supporting process freedoms in the realisation of valued capabilities. The capability approach could support the creation of institutions leading towards Indigenous self-determination. This could include the ability to recognise

the diverse meanings of Indigenous development, where Indigenous people actively take part in defining their own paths of development. These may include traditional and on-country livelihoods, language, spirituality and connection to country, as well as the ability to organise governance structures and representative bodies.

### *Creating context-specific policy formations that regard Indigenous agency as central*

Contemporary Australian Indigenous policy tends to direct interventions guided by the deficit discourse, where it is assumed that agency is deficient, concurrently justifying the promotion of paternalism and top-down approaches. The alternative is context-specific policy formations valuing the plurality of wellbeing, which challenge the perception of ‘Indigenous people’ as a homogeneous group. In reality, nothing is more obvious when considering ‘Australian Indigenous people’, or ‘Aboriginal communities’, than the diversity and heterogeneity of the Indigenous peoples in Australia (Sullivan 1996). Yet state officials currently seem to engage with only a selected few Indigenous individuals and organisations, assuming that they speak on behalf of, or know better than, the wider population. The capability approach provides a way to work through this exclusive and top-down managerial approach, an approach that is often at the expense of individual and collective process freedoms. Because it requires deliberation and democratic freedoms, the capability approach can help avoid individualisation, wherein actors use their privileged position to prevail over all others. Instead, the capability approach requires ‘that the construction of public interventions is to be achieved via the confrontation of a plurality of informational bases and normative references’ (Bonvin 2014:12). In other words, the capability approach requires public deliberation in the formation and execution of policies with actors that are directly impacted by the policy.

### *Making the means as important as the ends*

Another area where the capability approach could contribute to Indigenous policy in Australia is in rebalancing the relationship between the means and the ends of policy. Currently, policy is outcome focused (ends), and the process of getting to such outcomes is overlooked and undervalued. This is a concern because, as already identified in this paper, the agency of Indigenous people is overlooked and undervalued, resulting in what many would argue as top-down, paternalistic policies. Instead, the capability approach places agency (means) at the centre of the development process, where public deliberation and involvement

in the policy-making process is paramount. Within the capability approach, the policy-making process has intrinsic and instrumental significance in terms of people's ability to have more control over their lives. By overlooking Indigenous agency, policy can completely exclude Indigenous people in its formation, rendering the policy questionable and disempowering the people it should serve.

### *Creating multidimensional measures of Indigenous wellbeing*

The capability approach can provide a framework for thinking about particular measures of Indigenous wellbeing. The aim of the capability measures would be to identify capabilities over functionings—that is, what people can choose to do (ability) over what they actually do (achievement of outcomes). Measures should also be multidimensional in character, where particular capabilities are selected for context-specific ideas of wellbeing put forward by Indigenous people themselves. Identifying the capabilities to be measured should be negotiated through public deliberation. Robeyns (2003) sets out basic criteria for selecting capabilities:

- An explicit list is compiled that is publicly deliberated and defended.
- The methods used to draw up a list must be scrutinised and justified.
- The capabilities must be sensitive to the context, making clear the abstraction at which the list is pitched.
- Lists are checked to ensure that the capabilities listed cannot be reduced to other elements or misinterpretations.

The methodology employed by Yap and Yu (2014) is an example of selecting capabilities. Through placing the process freedoms of the Yawuru people of Broome at the centre of their research, they are developing culture- and gender-sensitive indicators of wellbeing.

## Conclusion

In this paper, I have tried to address the use of the capability approach in some parts of Australian Indigenous policy. To do this, I firstly reviewed and clarified the important concepts of freedom, agency and pluralism according to capability scholars, and showed how these concepts do not support the use of individual responsibility and the imposition of basic capabilities, as claimed by Pearson. I then suggested six areas in which the capability approach could be used to support future Indigenous policy making in Australia: analysing welfare-

to-workfare and activations policies, reconfiguring development as human flourishing and not economic growth/integration, creating context-specific and agency-honouring policy, and developing multidimensional measures of Indigenous wellbeing and agency.

Complementary with critical social theory, the capability approach could provide a suitable normative framework to guide policy to support Indigenous development. Shifting such a paradigm would be a helpful step in refocusing the public policy process and institutions on Indigenous wellbeing (as a heterogeneous concept) as the normative goal. The shift required on the part of the state and related institutions to support the plural approach to development will need a concerted effort by state agencies to move towards capability-centred policies. It will also need an openness and willingness to analyse the way in which power, isolation and oppression undermine policy and, most importantly, the freedoms of Indigenous Australians.

## Notes

1. Sen (2005) has even problematised the primacy of formal school education as a fundamental capability in development discourse. Alkire (2002) shows how Sen has a wider view of education beyond technical literacy and numeracy—one that incorporates different world views and knowledge systems that may challenge the dominant development discourse. Nevertheless, Sen should not be interpreted as dismissing the need for education, health or other capabilities—he rejects prioritising particular capabilities and states that the freedom to articulate capabilities is as important as their achievement.
2. The scoping study shows the sampling size of the study as 134 people (p. 33) from a wider Indigenous population of 5700 (p. 1).

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# CONTACT US

Centre for Aboriginal Economic Policy Research  
Research School of Social Sciences  
ANU College of Arts & Social Sciences

Copland Building #24  
The Australian National University  
Canberra ACT 0200  
Australia

T +61 2 6125 0587

W [caepr.anu.edu.au](http://caepr.anu.edu.au)

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