

Capability approach and its universality

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Introduction:

Defining a good quality of life, and answering the related question of life's ultimate meaning or purpose has been explained by various scholars, i.e. religious thinkers, philosophers, artists, and writers in different timeline of the human History. From the middle of the twentieth century, such questions have also been given increasing importance in the empirical research literature under the heading of 'quality of life' or 'wellbeing', in different academic discipline.

Before 1990's, development of a nation was mainly understood in terms of their economic growth based on their GDP and per capita income. However, by the introduction of the human development agenda by the UNDP in the early 1990's there has been a major shift in international

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development thinking towards non-economic issues and human beings as proper referent objects of development. In the human development agenda by the UNDP, the capability approach has been introduced for measuring development focusing more on non-economic issues and on human beings in order to evaluate and examine development process of a nation, especially for the under developed nations. The concepts of poverty, inequality and human development are very interrelated and often problematic. Thus, the right concepts and measures are the very tools to analyse a framework for poverty. To keep that in mind, the newly introduced Capability Approach has been majorly developed and advocated by the Nobel laureate economist Prof. Amartya Sen and later the philosopher Martha Nussbaum has also become a prominent advocate for this approach. At the present this has emerged as the leading alternative to standard economic frameworks for thinking about poverty, inequality and human development.

The first part of this study would examine the conceptual contribution to the capability approach to analyse the poverty measurements across the globe. In the second part, the study will discuss the universality of the capability approach. One of the popular criticisms of the capability approach is that, it imports western values, meaning its use can lead to neo-imperialism. However, the study has argued against the criticism and has attempted to show how the capability approach holds a universal nature. However, the study has not looked into the differences between the capability approach developed by Prof. Sen and M. Nussbaum, rather it has focused on the cross-cultural moral judgment, defending moral universalist arguments for the applicability of capability approach.

Understanding Capability approach:

In the 1980s the capability approach was initially developed by Prof. Sen as an approach to welfare economics.

In his capability approach, function and capabilities were distinguished from each other. He described function as “state of being” including happiness, excitement or fear, and “capability” as a real life possibility considering all external circumstances.²

The capability approach is mainly a broad normative framework for the evaluation of individual well-being and social arrangements. This approach can be taken for a specific group as well as for a nation to design policies and proposals about social change. This approach is used in different fields, but, most prominently in development thinking, welfare economics, social policy and political philosophy.

In academia, it is being discussed in quite abstract and philosophical terms. However it is also used for applied and empirical studies. In development policy circles, it has provided the foundations of the human development paradigm.³

The core characteristic of the capability approach is its focus on what people are effectively able to do and to be, that is, on their capabilities. This contrasts with philosophical approaches that concentrate on people’s happiness or satisfaction, or with practical approaches that concentrate on income, expenditures, consumption or basic needs fulfillment. A focus on people’s capabilities in the choice of development policies makes a profound theoretical difference, and leads to

² Kleist, C., (2010), *Global Ethics: Capabilities Approach*. *Internet Encyclopaedia of Philosophy*, Available at <http://www.iep.utm.edu/ge-capab/> visited on 02.02.2013.

³ Fukuda-Parr, Sakiko (2003), The human development paradigm: operationalizing Sen's ideas on capabilities, *Feminist Economics* 9 (2/3): 301-317 and Fukuda-Parr, Sakiko, and A.K.Shiva Kumar (2003) *Readings in Human Development*. Delhi: Oxford University Press.

quite different policies compared to neo-liberalism and utilitarian policy prescriptions.

Some aspects of the capability approach can be traced back to, among others, Aristotle, Adam Smith, John Stuart Mill and Karl Marx; but the approach in its present form has been pioneered by the economist and philosopher Amartya Sen and more recently also been significantly developed by philosopher Martha Nussbaum.

According to Sen, development is a process to expand people’s real freedoms.⁴ Moreover, Sen points out the importance of personal characteristics and the social and economic institutions as key factors of freedom expansion. In 1993, Sen emphasized that capabilities are dependent on a variety of factors, including personal characteristics and social arrangements. Recently, Robeyns (2005) has highlighted three kinds of conversion factors that influence the capability set. What people are effectively able to do, depend on three kinds of conversion factors: personal, social and environmental.⁵ That means that we have to question how to improve those conversion factors to obtain the real freedom expansion.⁶

However, the capability approach focuses on what people are able to do and become instead of looking at what they have, or how they feel. Sen argues that, in analysing well-being, we should shift our focus from ‘the means of living’, such as income, to the ‘actual opportunities a person has’, namely their

⁴ Sen, Amartya, (1999), *Development as freedom*, Oxford, Oxford University Press

⁵ Robeyns. I. (2005), The capability approach – a theoretical survey, *Journal of Human Development*, 6(1), pp. 93-114.

⁶ Des Gasper, D. (2004), *The Ethics of Development*, Edinburgh, Edinburgh University Press.

functioning and capabilities⁷. ‘Functioning’ refer to the various things a person succeeds in ‘doing or being’, such as participating in the life of society, being healthy, and so forth; while ‘capabilities’ refer to a person’s real or substantive freedom to achieve such functioning for example, the ability to take part in the life of society⁸. He argued, a ‘capability set’ “is the total functions that are available for a person to perform”⁹. According to him neither should capabilities and functions be understood as mutually exclusive nor as completely paralleling one another¹⁰. He took example of hunger where people participate in the same function, but possess different capabilities. He explained that, even though two people might be hungry, it’s possible to imagine that they are hungry for very different reasons: one might not have access to food, while the other one is on a hunger strike voluntary¹¹.

To illustrate, if we take the example of women’s voting rights in all elections as part of the countries’ democratic process; having access to the voting rights represent capabilities, and using these facilities i.e. voting in order to participate in the political process, is a functioning. But the capability of exercising voting rights by the women may not be realised, i.e. converted into a functioning, for several reasons, e.g. lack of access to vote, lack of education, or lack of political freedom to express certain views by the women.

Thus, in order to convert capability to function, Prof. Sen¹² identified the five following types of instrumental freedoms

⁷ Sen, Amartya, (2009), *The Idea of Justice*, Allen Lane, London, at page: 253.

⁸ Sen, Amartya, (1999), *Development as freedom*, Oxford, Oxford University Press at page: 75.

⁹ Ibid

¹⁰ Ibid

¹¹ Ibid

¹² Ibid at page 38.

that contribute to the capability of a person generally to live their live more freely¹³:

- ➔ **Political freedoms** – relate to what is generally associated with democratic rights e.g. right to vote, right to participate in the election etc. irrespective of gender or race;
- ➔ **Economic facilities** – in addition to opportunities to use economic resources, distributional arrangements of wealth is also an important consideration;
- ➔ **Social opportunities** – include access to basic facilities, such as education, shelter, food and health;
- ➔ **Transparency guarantees** – involve openness and trust and are important in preventing corruption;
- ➔ **Protective security** – provide safety nets, e.g. in the form of transfer payments to afford a minimum standard of living.

According to the capability approach, the objective of both justice and poverty reduction should be to expand the freedom that deprived people have to enjoy ‘valuable beings and doings’.¹⁴ The key excitement about the capability approach is that it goes beyond the relentless criticism of income to propose an alternative space in which to conceptualize both poverty reduction and justice.¹⁵

In order to prove the argument made above, we can take an example from Bangladesh. In Bangladesh there are 64 districts.

¹³ Ibid

¹⁴ Sen, Amartya, (1992), *Inequality Re-examined*, Harvard University Press, Cambridge, at page: 39 and Sen, Amartya, (1999), *Development As Freedom*, Knopf Press, New York, at page: 75.

¹⁵ Alkire, Sabina, (2005), Why the Capability Approach?, *Journal of Human Development*, Vol. 6, No. 1

Out of these 64 districts, there are three hill districts¹⁶ [Chittagong Hill Tracts “CHT”] with a population of nearly three million indigenous ethnic communities and these three districts are regulated by a legal framework, which is separate and distinct from the other 61 districts of Bangladesh. These three hill districts are mainly governed by the Chittagong Hill Tracts Regulation, 1900- a customary law for traditional dispute settlement. Alongside this traditional dispute settlement mechanism, there were no regular Civil and Criminal Courts established or operating in the CHT. Instead, the Deputy Commissioner (DC), a civil servant in the administrative branch of the Bangladesh Government, was empowered to hear all civil disputes, except family matters (which were heard by Karbaris, Mauza Headmen and Circle Chiefs as per the Chittagong Hill Tracts Regulation, 1900). All civil appeals from the decisions of the Deputy Commissioner were heard before the District Court in Chittagong. Magistrate courts were conferred power to hear original criminal cases and the jurisdiction to hear criminal appeals and some original criminal cases was vested upon the Deputy Commissioner. In 2003, although the CHT Regulation, 1900 was amended to allow for the creation of District Courts and Sessions Divisions in the CHT districts, no steps were taken by the government between 2003 and 2006 to establish the Civil Courts or Suppression of Violence against Women and Children Tribunals in the said region. In 2006, Bangladesh Legal Aid and Services Trusts (BLAST) filed public interest litigation before the High Court Division of the Supreme Court of Bangladesh, seeking implementation of the CHT Regulations as amended in 2003, and specifically seeking directions for the establishment of civil courts in the region. The High Court Division pronounced its judgment in favor of the petitioner. Thereafter, in July 2008,

¹⁶In 1984, Rangamati, Bandarban and Khagrachari, the three districts collectively known as the Chittagong Hill Tracts (CHT), were given the status of full districts.

the formal Courts were established and became operational in each of the three districts in the CHT. This ensured equality before the law as well as access to justice for the indigenous ethnic communities in CHT.

Now, if we analyse the situation then we will observe that prior to establishing the formal courts, the indigenous people of that region had no access to justice and thus was not equal before the law like other districts in Bangladesh and therefore, they did not have the capabilities to get or seek justice through formal legal system of the country. However, after establishment of the Courts, the indigenous people will be able to convert their capabilities in to function by getting the opportunity to seek justice through the formal legal justice system in Bangladesh.

Therefore, the capability approach evaluates the quality of human life in terms of those capabilities that are real opportunities and which a person has reason to value. This approach considers a wide range of aspects of human lives as valuable as long as people have reason to value those as discussed in the above example.

Capability is a type of freedom; ‘the substantive freedom to achieve alternative functioning combinations (or, less formally put, the freedom to achieve various lifestyles)’.¹⁷ Another way to put this is that functioning is what a person manages to be or to do, while capabilities are the real opportunities and choices that are available to that person. Evaluating functions would give information about what a person does, while evaluating capabilities would give information about what a person is free

¹⁷ Sen, Amartya, 1999, *Development as Freedom*, Oxford University Press, Oxford at Page 75

to do. It is ultimately this last information that the capability approach wishes to evaluate.¹⁸

Sen does not specify a list of capabilities because he doesn't want to purport a biased notion of 'the good', but Nussbaum has put forward a list of what she calls 'the necessary basis for pursuing their good life'.¹⁹ She argues that this list is not based on human nature, but on a summarization of empirical findings of cross cultural inquiry. The list includes: life; bodily health; bodily integrity; senses, imagination and thought; Emotions; Being able to form a conception of the good and to engage in critical reflection about the planning of one's life; affiliation in regards to friendship and to respect; other species; play and lastly, control over one's environment both political and material.²⁰

While Sen primarily advocates the capability approach as a tool to evaluate how people are doing, Nussbaum goes further. Her stated goal is that the list of capabilities should also guide public policy and figure in constitutions or play the role of a constitutional guarantee.²¹

However, the next important question that arises is regarding the selection of capabilities; how are we going to decide what should be counted as capabilities? do we need one well-defined list of capabilities or do we need to know how to select the capabilities? In this regard, Nussbaum's approach brings the capability approach to a new level by involving people's level of satisfaction and the amount of resources they are able to

¹⁸ *ibid*

¹⁹ Nussbaum,., Capabilities, Human Rights, and the Universal Declaration in Weston in Burns H. and Marks, Stephen. P., (eds) *The Future of International Human Rights*, Transnational Publishers, New York, at page 44.

²⁰ *ibid*

²¹ *ibid*

command which she believes to be the ultimate gauge of quality of life.²² Therefore, Nussbaum presents a list of Central Human Capabilities which she believes to represent capabilities as "moral entitlements of every human being (Universal morality approach)".²³ According to Nussbaum, the basic idea is that a life deprived of even one of these capacities is not a life worthy of human dignity. For these capacities to be realized from a political level it is necessary to say that "to treat everyone as an end we will have to take a stand on some values that will be made central for political purposes".²⁴ For Nussbaum, humans flourish by realising a set of distinctive, immanent, species-wide capabilities as functions. Her approach is based on the idea that there are core human capabilities that are central to human lives and that distinctively make us human. These approaches support the creation of social, political, economic, legal, and moral conditions for people to develop and exercise their capabilities. She had developed an open and revisable threshold list of central human capabilities that all people ought to be able to exercise. The list is as follows:²⁵

- ✓ **Life:** being able to live a normal human life span.
- ✓ **Bodily Health:** being able to have good health.
- ✓ **Bodily Integrity:** being able to be physically secure, including rights over one's own body.
- ✓ **Senses, Imagination, and Thought:** being able to use these mental capacities in a truly human way through adequate education, informed consent, and freedom from repression.

²² Nussbaum, Women and Human Development: The Capability Approach, *Australasian Journal of Philosophy* (Vol. 3, p. 312).

²³ *Ibid*

²⁴ *Ibid* at page 58

²⁵ *Ibid* at page 78-80

- ✓ **Emotions:** being able to have and freely express feelings and sentiments.
- ✓ **Practical Reason:** being able “to form a conception of the good and to engage in critical reflection about the planning of one’s life.”
- ✓ **Affiliation:** (a) being able to interact well with other people, and (b) having the social bases for self-respect, dignity, and non-humiliation.
- ✓ **Other Species:** being able to live with concern for the natural world.
- ✓ **Play:** being able to play and laugh.
- ✓ **Control over Environment:** being able to effectively participate in political processes, to have possessions, and to seek employment.

This list can be used for public planning purposes by governments and other political entities. The goal would be to develop legal, political, and social institutions and procedures that create conditions in which people can develop and exercise their capabilities.

Therefore, the key issue here, as regards the capability approach, relates to the selection of functioning. However, this leads to an empirical question, whether the list given by Nussbaum has universality in respect of cultural differences or is it just another attempt of importing western values with justification which would eventually lead to neo-imperialism? This particular question has been analysed in the following chapter of the study.

Capability approach: universal vs. means to import Western values which would lead to neo-imperialism

The conflict between universality of capabilities approach and cultural relativism is found from the critiques of the capability approach theory.

According to the principle of cultural relativism, all points of view are equally valid, and any truth is relative. The truth belongs to the individual or his/her culture. All ethical, religious, and political beliefs are truths related to the cultural identity of the individual or of the society.

The United Nations Department of Public Information defines cultural relativism as,

“the assertion that human values, far from being universal, vary a great deal according to different cultural perspectives. Some would apply this relativism to the promotion, protection, interpretation and application of human rights which could be interpreted differently within different cultural, ethnic and religious traditions” (Diana, 1995).²⁶

Also,

“cultural relativism maintains that there is an irreducible diversity among cultures because each culture is a unique whole with parts so intertwined that none of them can be understood or evaluated without reference to the other parts

²⁶ Ayton-Shenker, Diana, The Challenge of Human Rights and Cultural Diversity, United Nations, <http://www.un.org/rights/dpi1627e.htm> visited on 28.11.2013

and to the cultural whole, the so-called pattern of culture'' (Lawson, 1998).²⁷

Critiques of cultural relativism argue that the absolute universality of capability approach and the selection of functionings cannot exist because it depends on the cultural context.²⁸ This eventually means that the notions of the capability approach and the selection of functionings are different throughout the world due to the diversity of various cultures.²⁹ To the relativists, the universality of capability approach may suggest cultural imposition and imperialism of the West. Throughout history, the West has viewed its own beliefs as universal and has attempted to universalise them. According to some relativists, this universalisation of Western norms is a destruction of the diversity of cultures and another form of homogenisation in the modern world.³⁰

In order to defend the above criticism and to examine whether the list of capabilities are universally valid or not, a real life example can be taken from Bangladesh, as given below:

One Mr. Shapan Chowkider, Advocate (being visually challenged), obtained his Secondary School Certificate in 1999, and his Higher Secondary Certificate in 2001. He was admitted to the Department of Law, University of Dhaka in 2002, where he obtained his LL.B. (Hons) and LL.M. degrees in 2008 and 2009 respectively. In 2009 he was enrolled as an Advocate with the Bangladesh Bar Council after duly qualifying in both the written and viva voce examinations. Mr.

²⁷ Lawson, S. (1998). Democracy and the problem of cultural relativism: Normative issues for international politics. *Global Society: Journal of Interdisciplinary International Relations*, 12(2), 251-271.

²⁸ Alston, Philip and Steiner, J. Henry, (1996), *International Human Rights in Context. Law, Politics, Morals*, Oxford University Press at page: 192

²⁹ Ibid at page 193

³⁰ Ibid

Chowkider being visually challenged, has at all stages of his educational life, been able to take part in competitive examinations with the aid of a scribe and/or by use of documents in Braille -facilities which were provided to him by each of the concerned authorities including the Bar Council, University of Dhaka and the Comilla Secondary and Higher Secondary Education Board. Thereafter, he submitted an application for appearing for the examinations to be held for the post of Assistant Judge, in reference to an employment notice published by the Judicial Service Commission, in the daily Bangladeshi national newspaper. He then personally attended at the office of Secretary, Bangladesh Judicial Service Commission to request that he be provided with a scribe during the Examinations. However, he was told that no such facilities could be provided, and that he was in any event, disqualified under the law to participate in the said examination by reason of his blindness. He was further told that blind persons could not serve as judges, as one of the key qualifications to become a judge was the ability to study papers.

Schedule III of the *Order for Appointment at the Bangladesh Judicial Service Commission, 2007*, being S.R.O. No. 96-AIN/2007, specifies the standard for physical fitness for candidates for appointment to the post of an Assistant Judge. It further provides that a candidate may be rejected for appointment, even after passing all stages of examinations, if s/he is found to have a particular form of disability even though such disability may not be an impediment in performing the duties and responsibilities of the concerned Assistant Judge post. Being aggrieved by the said law Mr. Chowkider filed a Judicial Review case in the High Court Division submitting that this had violated his fundamental rights to equality before the law, equality of opportunity in public employment and the right to freedom of profession, as guaranteed in Articles 26, 27, 29 and 40 of the Constitution.

The Attorney General of the Govt. of Bangladesh submitted before the Court that disabled persons throughout the world have made immense contributions to the intellectual and cultural sectors, but they may not be able to undertake judicial or other public service and we do not have a cultural acceptance of a blind judge. This case is pending before the Court for its' decision.

The example above can be seen through two contrasting approach in moral theory; moral universalism and moral relativism. For the above scenario, moral relativists will argue in line of the attorney general's argument that all moral values are relative to the specific context from which they arise (i.e. the society will not accept a judge who is blind). On the other hand, moral universalist claim that fundamental moral values are shared by and are applicable to all human groups which leads to the proposition that Mr. Chowkider should have the opportunity to sit in the exam to become a Judge as he is qualified for the test.

Now the question is whether we could follow what moral relativism demands from us, i.e. to deny the possibility of developing a single universal moral standard. Or we should agree with the moral universalist view who argues that different cultures may vary in their practices, but do not disagree on the fundamental moral principles underlying these practices and therefore, it would be widely established that we cannot and should not tolerate for example any form of discrimination against persons with disability.

Although moral relativist and universalist agree on the view that cultures are different in their moral practices; universal moral standards can exist even if some moral practices and beliefs vary among cultures, since cultures merely differ in the application of fundamental moral principles. Therefore, while the moral practices of cultures may differ, the fundamental

moral principles underlying these practices do not and if we follow the list given by Nussbaum then a person like Mr. Chowkider will be able to convert his capabilities in to function by getting the opportunity to appear in the exam.

Moral relativist argues that different cultures and societies have different moral values and therefore right and wrong is determined by culture. However, Nussbaum responses to the criticism that her capability approach is "committed to cross-cultural norms of justice, equality, and rights, and at the same time sensitive to local particularity, and to the many ways in which circumstances shape not only the options but also beliefs and preferences"³¹. She thereby defends the capability approach as being "an approach that is respectful of each person's struggle for flourishing that treats each person as an end and as a source of agency and worth in her own right"³².

Therefore, at the end, I will agree with Nussbaum as she has used the capability approach to develop a universal theory of the good; it applies to all social justice issues, and to the global world. I would also argue that, just because the given framework supports western values and does not support certain cultures; it does not mean in any ways that the given list of capabilities will lead to neo-imperialism. If we again take the example of the case of Mr. Cohwkider, then we would see, discrimination in the public service or any sorts of discriminations on the basis of a person's disability should not be acceptable and in order to identify that, a universal list is very much essential.

³¹ Supra note 19 at pages: 69-70.

³² Ibid

Conclusion

To conclude, this paper discussed the capability approach and its problems that arise in relation to cross-cultural moral judgments. It has been argued that to make cross-cultural comparisons, a cross-cultural standard is needed. This paper evaluated the capability approach which is based on a Universalist account of central human functions, and is a useful tool as it gives real answers to challenges that the spread of injustice and inequality have risen across the globe.

The philosophical level of attacking the universality of the capability approach from the cultural relativist point of view is not sustainable. The factual claim of cultural differences does not entail any conclusions as to what level of interference with specific cultures is allowed. The normative claim that cultural differences need to be protected is incoherent in a cultural relativist approach. As it relies on the fundamental right to tolerance of diversity, it is not possible to justify universal norms; rather this must count for norms of tolerance. Again, cultural relativism has the inherent danger that individuals are denied fundamental rights depending on the state they happen to be in.

So, the debate between universalism and relativism should be a non-issue. Universal goals and cultural sensitivities can be reconciled in the establishment of realistic strategies to promote freedom. However the debate in its present form contributes to divert attention from more important issue of ensuring freedom to other less important issues.

Therefore, we can conclude that the universality of capability approach may be western, liberal and Universalist, but that does not mean to say that differences in culture cannot be

accommodated for. Even more, minority cultures often need the protection through capability approach to prevent them from oppression or injustice.

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