

Metaethical Issues in the Capability Approach

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What is the best metaethical foundation for the capability approach? The aim of this paper is to analyse Martha Nussbaum's metaethical conception, and Amartya Sen's less explicit metaethical perspective and try to answer this question.

§1. Nussbaum and objectivism

Nussbaum explicitly holds an objectivistic metaethics, whose roots are to be found in Aristotle. She attempts «to ground the capabilities approach in the [...] Aristotelian idea of truly human functioning»: «the account of the central capabilities – she says – is based on an intuitively powerful idea of truly human functioning» [Nussbaum 2000, pp. 12 and 101]. In *Non-relative Virtues* she adopts the procedure of *Nicomachean Ethics*: that is, defining some fundamental areas for every human life, for example to feel pleasure and pain, to be scared and so on, and asking what the appropriate conduct in each of these areas is. There can be more alternative descriptions, or definitions, of what a correct conduct in these areas is, called 'thin description', replaced by a 'thick description'¹ by means of a kind of rational discussion which is one of the tasks of ethical theory. A genuine disagreement on what the best ways of acting are is possible only at the level of thin description, but it is not possible at the level of thick description: at this level, moral disagreement is not plausible. According to this theory, the right, or virtuous, action is the one that properly answers the problems of the different spheres of human conduct, and that states the appropriate functioning in every area. This kind of metaethics affirms that moral judgements are true-apt, namely statements about the world, and that moral

¹ This use of the terms 'thin' and 'thick' is not to be confused with the use, largely present in Nussbaum and derived from Rawls, adopted in relation to the conception of good (thin if it is exclusively political, thick if it is substantive [Nussbaum 1990, p. 217]); nor with the one that regards the evaluative concepts (thin if exclusively evaluative, thick if endowed with a descriptive component, see Williams [1985, pp. 140 ss]).

properties have an objective reality, in virtue of their relation to properties of natural reality. It is, therefore, a realist cognitivist theory of a naturalistic kind². However, it must not be confused with intuitionism: intuition, in Nussbaum, is not a rational or extrasensible *sui generis* faculty; intuition is simply empirical intuition.

This view has some similarities with the metaethical theory developed by Philippa Foot. The nature of living beings, in general, and of human beings, in particular – Foot says –, is such that we can identify capacities and functions that represent their ‘intrinsic’ or ‘natural’ good, and this good is determined by the form of life of the individual’s species. This reference to natural features, conceived, as Aristotle states, as the individual’s teleological functions determines how the individual should be: what his good function, that is a virtue, or his bad function, that is a vice, is. «Natural goodness and defect [...] depends essentially on the form of life of the species to which an individual belongs» [Foot 2001, p. 35]. On the basis of these natural functions determined by the species, namely on the basis of this «natural normativity», it is possible to establish moral evaluations, principles and rules that regulate human relations: the meaning of the adjective ‘good’, whether it is referred to plant roots or to human disposition, is, according to Foot, the same. «For all the differences that there are, as we shall see, between the evaluation of plants and animals and their parts and characteristics on the one hand, and moral evaluation of humans on the other, we shall find that these evaluations share a basic logical structure and status. [...] Moral defect is a form of natural defect not as different as is generally supposed from the defect in sub-rational living things» [Foot 2001, p. 27]. It is the content of what a good human life is that determines for humans what an objective virtue or an objective vice is, what is naturally good or naturally bad.

The difference between Foot and Nussbaum lies in the fact that Nussbaum explicitly rejects the metaphysical realism which implies a correspondentist theory of truth and a clear independence between mind and world [Nussbaum 1992, p. 206]. She adopts a view similar to Putnam’s ‘internal realism’, holding that what is real is established by our own conceptual scheme, namely by the theoretical structure of our knowledge, and defines her own view «“internalist” essentialism» [Nussbaum 1992, p. 208]. It is not referring to a completely independent external reality, but only moving within a particular historically determined culture that we can select the

² I used this characterization of the metaethical positions in Magni [2004].

essential and universal characteristics of what we value. «This conception – Nussbaum says - is emphatically *not* metaphysical; that is, it does not claim to derive from any source external to the actual self-interpretations and self-evaluations of human beings in history» [Nussbaum 1992, p. 215]³.

Nussbaum examines three possible objections to this view. The first one holds that even if we can separate general spheres of human experience this does not imply that we can find a thick definition of the right actions in each sphere which transcends the particular culture and tradition in which it is expressed: «even if these grounding experiences are shared, that does not tell us that there will be a shared appropriate response» [Nussbaum 1988, p. 184]; moral disagreement could not be resolvable. The second objection holds that the very general spheres of human experience can be dependent on cultural context: the feeling of pain itself is claimed to be culturally dependent. The third objection is that we can deny the existence of these spheres of fundamental experience and that we can imagine a human life without them, so that is not possible to specify the corresponding right actions.

The answer to the second and third objection is based on the observation that it is actually possible to select some areas of fundamental human experience, shared by different cultural contexts and by different local traditions; and that there are spheres of life which characterize human existence, such as mortality, feeling of pain, bodily dependence on external world. It should be said that the problem, from this point of view, was an exclusively empirical one, and that Nussbaum's reply was correct within these limits. Yet, Nussbaum should not accept this kind of observation, since she rejects, as Putnam does, a clear distinction between facts and values, between purely empirical statements and evaluative sentences. «The question as to whether a certain function is or is not a part of our human nature – Nussbaum says – is a certain special sort of evaluative question, namely, a question about whether that function is so important that a creature who lacked it would not be judged to be properly human at all» [Nussbaum 1988, p. 177]: «I never claim to be deriving ethical conclusions from nonethical premises» [Nussbaum 2000b, p. 118]. This conception too is derived from Aristotle. To contrast Williams' interpretation of Aristotelian ethics which is thought to be founded on purely factual statements about human nature⁴, Nussbaum replies

³ See also Nussbaum-Sen [1989, p. 312] (an essay that seems to represent the metaethical position of Nussbaum more than the position of Sen).

⁴ See Williams [1972, pp. 69 ss; 1985, pp. 34 ss].

that «Aristotle’s metaphysics of nature, and his biology, are neither value-free nor external. There is nothing anywhere in Aristotle’s work precisely corresponding to a modern distinction between fact and value; and, furthermore, science, as well ethics, is “internal” for Aristotle in the sense that it is the attempt to give an intelligent account of human experience of the world» [Nussbaum 1992b, p. 102].

Even the answer to the first objection is complex: it is based on the intuition of what a genuine human functioning is and on a trustworthy critical and rational procedure, which is able to remove the provisional thin definitions and to warrant an actual moral progress. To answer this question, Nussbaum brings her realistic view close to a procedural conception. The *trait d’union* is the theory of internal realism. It is true, Nussbaum says, that «the primary weight of justification remains with the intuitive conception of truly human functioning and what that entails» [Nussbaum 2000, p. 76], but this initial intuition is not enough: it can be wrong or non appropriate, therefore it needs to be verified in a procedure of discussion and debate. She refers explicitly to Rawls’ method of ‘reflective equilibrium’: the initial moral belief is modified in the light of other beliefs and available ethical theories, until we find an aware equilibrium among these components. «The account of political justification that I favour lies close to the Rawlsian account of argument proceeding toward reflective equilibrium: we lay out the arguments for a given theoretical position, holding it up against the “fixed points” in our moral intuitions; we see how those intuitions both test and are tested by the conceptions we examine. [...] We hope, over time, to achieve consistency and fit in our judgements taken as a whole, modifying particular judgements when this seems required by a theoretical conception that seems in other respects powerful, but modifying or rejecting the theoretical conception when that has failed to fit the most secure of our moral intuitions» [Nussbaum 2000, pp. 101 s].

Nussbaum’s general aim is to reach «a substantial convergence between the substantive account and a proceduralist account, where the procedure itself is structured in accordance with certain substantive values» [Nussbaum 2000, p. 151]; but, unlike Rawls, the end of the procedure has a naturalistic character: moral qualities are real; a point that Rawls’ constructivism does not allow (since it is a non-realist cognitivist theory). According to Rawls, the only objective moral properties are the ones we have at the end of a deliberative procedure subjected to particular restraints: «the idea of approximating to moral truth has no place in a constructivist

doctrine: the parties in the original position do not recognize any principles of justice as true or correct and so as antecedently given; their aim is simply to select the conception most rational for them, given their circumstances. This conception is not regarded as a workable approximation to the moral facts: there are no such moral facts to which the principles adopted could approximate» [Rawls 1980, p. 350].

This kind of metaethical conception is not exempt from difficulties. Even if we do not consider the problems of interaction between these two distinct metaethical perspectives - Aristotelian naturalism and proceduralism - and their possible harmonization, we can nevertheless express some doubts. In the first place, i) it is not certain that this kind of constructivistic procedure is really available, and that it can reach a non controversial solution which is able to eliminate further moral disagreement: Rawlsian constructivism is not less problematic than other metaethical perspectives; furthermore, ii) even though we agree that this procedure is really available, there are still the problems involved by Aristotelian naturalism, also in its internal and non-metaphysical version. For what kind of reason do we accept to derive what is good from what is essential to a human being? Essentially human – it has been noted – are also those features that we do not hesitate to call immoral, like cruelty or slavery⁵. The notion of humanity, as well as the notion of nature, is so vague and wide that it could also cover what we would exclude from an ethical point of view: it is not a reliable guide to establish what we ought to do. Finally, iii) if we consider the notion of human being as an evaluative notion, like Nussbaum suggests (because it is internal to our cultural practices, where there is not a clear distinction between facts and values), we are faced with the problem to establish what, in a holistic perspective of this kind, can be considered not evaluative. «The term ‘evaluative’, in such an employment, relies on the positivist contrasts that she [...] [wants] to abandon or soften» [Williams 1992, p. 196]: unless we consider everything evaluative, a distinction between what is evaluative and what is not (or what is more evaluative and what is less) will rise again, and with it the problem of their relation.

§ 2. *Sen and metaethics*

⁵ See Donatelli [2001, p. 118].

The metaethical perspective of Sen's version of the capability approach is different in many respects. In the first place, Sen emphasizes the existence of relativism and moral disagreement. According to him, the selection of what capabilities and functionings are to be considered valuable is a procedure of choice and public decision that is influenced by the set of knowledge, culture, and values present in a particular society; and this very dependence hinders a definite agreement. However, it seems to me that Sen does not limit himself to the acknowledgment of an ethical relativism of a *descriptive* kind, holding that values are relative to a society or to a community with the consequence that different societies have different sets of values. He shifts from this kind of relativism to an implicit statement of a *metaethical* relativism, according to which different societies, but also different individuals, can have contrasting values equally *correct*, or *valid*. This form of relativism is not to be confused with the ethical relativism of a *normative* kind which infers conformism and indifference from the relativity of values to a given society⁶. Instead, according to metaethical relativism, «two conflicting basic judgements may be equally valid» [Frankena 1973, p. 109], without involving any contradiction, since what is stated to be relative is not the truth of judgement, but its validity or correctness⁷. Therefore, according to metaethical relativism, there are moral disagreements that cannot be solved simply by showing who is right or wrong.

Sen does not believe in a form of metaethical objectivism which would enable us to select a close set of capabilities and functionings that represents moral good. This is what he replies to Nussbaum [Sen 1993, pp. 46 s], who criticizes his scepticism about a kind of objectivism maintaining that «there is just one list of functionings (at least at a certain level of generality) that do in fact constitute human good living» [Nussbaum 1988b, p. 152]. «It seems to me – Nussbaum says – that Sen needs to be more radical [...], by introducing an objective normative account of human functioning and by describing a procedure of objective evaluation by which

⁶ See Williams: this form of relativism holds «that 'right' means (can only be coherently understood as meaning) 'right for a given society' [...]; and that (therefore) it is wrong for people in one society to condemn, interfere with, etc., the values of another society» [Williams 1972, p. 34].

⁷ According to Brandt's formulation of relativism [Brandt 1959, pp. 272 ss]; on which see Vacatello [1991, p. 62; 2000, pp. 425s], also for the relation between metaethical relativism and non-cognitivism, notwithstanding what is held by many non-cognitivists: Ayer, Stevenson, Hare, Oppenheim, Balckburn, who reject this relation, since they talk about relativism as referring only to the truth of moral judgements and not to their validity.

functionings can be assessed for their contribution to the good human life» [Nussbaum 1988b, p. 176].

Unlike Nussbaum, Sen's normative perspective does not claim to remove disagreement, which is acknowledged in the capability approach; approach that is characterized, from this point of view, by a fundamental incompleteness. «That residual undecidability – when present – would not be a reason for embarrassment, since all it does is – Sen says - to reflect the fact that with partial dissonant valuations, agreed completeness cannot be achieved» [Sen 1992, p. 48]. Such insistence on the unsolubility of moral disagreement is probably due to the heritage of a non-objectivistic metaethical view (that is, non-cognitivist and non-realistic), like Richard Hare's prescriptivism, and that was expressed by Sen in an article published in 1967, *The Nature and Classes of Prescriptive Judgements*. Hilary Putnam has recently stated that here there is a «valiant attempt to reconcile the noncognitivist thesis that value judgements are merely a way of expressing our endorsement of certain imperatives with the claim that is possible to give *reasons* for and against ethical judgements» [Putnam 2002b, p. 67].

In this essay Sen makes a distinction between basic and non-basic value judgements within a given set of values: a value judgement is basic for a person, Sen writes, «if no conceivable revision of factual assumptions can make him revise the judgment» [Sen 1967, p. 50], and then it is accepted in any conceivable factual circumstance; a value judgement, on the other hand, is non-basic «if such revisions can take place» [Sen 1967, p. 50]. The possibility of this revision on the grounds of factual considerations opens up some spaces of rationality in ethics: factual considerations are enough to solve the major part of disagreements just because they are usually referred to non-basic value judgments; nevertheless, disagreement on basic value judgements remains not solvable.

Thus, it is not only in relation to the means that a rational argument is possible, but also in relation to the ends expressed in non-basic value judgements. As far as it regards them, empirical and scientific considerations play the role of reasons for or against the judgement: the judgement that a rise in national income indicates a better economic situation, Sen says, can change if we learn that the poor have become poorer and the rich a lot richer. On the other hand, basic value judgements are not modified even if our knowledge on their factual assumptions changes: 'do not kill a human being' is a basic value judgement if no factual assumption modifies it even

though, for example, we know that the person murdered other people. «In so far as a certain value judgement is basic to its author, one cannot really dispute it in the same way one disputes a factual assertion, but if it is non-basic, a dispute on it can take a factual form» [Sen 1967, p. 51]. Therefore, factual considerations can resolve cases of moral disagreement when they are bound to non-basic value judgements. At this level, which is the most common, there is room for rationality in ethics.

Furthermore, if we certainly state that some value judgments are non-basic there is never absolute certainty about the fact that a given judgment is basic, since it is not epistemically possible to consider all the alternative factual circumstances which can influence it. We can however proceed with the hypothesis that some of these judgments are basic until they are proven to be wrong. «In this respect – Sen notes – there is an obvious analogy with the practice in epistemology of accepting tentatively a factual hypothesis as “true”, until and unless some new observations refute that hypothesis» [Sen 1967, p. 53]. At the end we reach the point in which we are compelled to admit that we estimate something because it is estimable without any other reason: «value this because it is valuable», like Ayer said [Ayer 1949, p. 230]; nevertheless, it is never certain that this point is truly reached. In ethics – Sen observes – we are never sure when a rational discussion is really fruitful: «to take a given value judgment to be basic, is to give it, at best, the benefit of the doubt» [Sen 1967, p. 55].

Yet, according to Sen, if Ayer is right in excluding the possibility of rational argument in relation to basic value judgements, we cannot say the same about non-basic value judgements. Ayer considers all the value judgements as basic, and conceives reasons in ethics «only in the sense that they determine attitudes» [Ayer 1949, p. 237]. But, Sen asks, how are these attitudes affected? «Even if one accepts – he says – Hume’s celebrated law that prescriptive conclusions cannot be derived from exclusively factual premises, there is no doubt that prescriptive conclusions can be drawn from factual premises *among others*» [Sen 1967, p. 52], (of a prescriptive kind, if I understand it correctly): in this case purely factual and scientific considerations constitute reasons to accept or reject a value judgement. Even the contraposition between economics (which deals only with facts), and ethics (which deals only with evaluations and obligations) is not so sharp as it might seem: not all evaluations are basic, many of them are dependent on factual assumptions. In this way Sen keeps at a

distance Ayer's emotivism and less refined forms of non-cognitivism which do not allow rational discussion about values.

The aim of Sen's essay is to enrich the non-cognitivist analysis of the rational discussion in ethics usually focused, almost exclusively, on the distinction between intrinsic value judgements, on which a rational discussion is not possible, and extrinsic value judgements, on which a rational discussion is possible (since it is a question of an empirical kind whether a given mean is adequate to realize a given end). But, if Ayer's emotivistic theory is affected by Sen's remarks, it cannot be said the same about Charles Stevenson's theory: not all the forms of emotivism are so unprepared to face the issue of rational discussion. Stevenson makes a clear distinction between two types of moral disagreement: a disagreement in attitudes expressed in moral judgments, and a disagreement in empirical beliefs implied by moral judgments. When an ethical disagreement is due to a disagreement in the attitudes expressed by moral judgments it is not rationally solvable; but when it is due to a disagreement in the two parties' beliefs it is solvable by means of a growth of factual knowledge, and therefore through rational discussion. A new belief can lead to have a different attitude: it is a «psychological fact that altered beliefs may cause altered attitudes» [Stevenson 1948, p. 6]. «Attitudes – Stevenson says – are often functions of beliefs. We often change our attitudes to something when we change our beliefs about it; just as a child ceases to *want* to touch a live coal when he comes to *believe* that it will burn him» [Stevenson 1948, p. 4]. Sen's observations add to Stevenson's view only a certain emphasis on the lack of certainty about the actual unsolvability of an ethical disagreement, and a firmer reliance that a great deal of our disagreements are due to disagreement in belief.

Engaging in a controversy with the theory of rational choice, Sen has developed during the years a theory of choice that tries to extend the notion of rationality. Rationality is not reduced to the maximization of one's own interest (as it is in the theory of rational choice), nor it can be considered merely instrumental rationality. Indeed, a wide use of the notion of rationality is possible, where it corresponds to a critical and careful assessment. In this sense rationality is «the discipline of subjecting one's choices – of actions as well as of objectives, values and priorities – to *reasoned scrutiny*» [Sen 2002, p. 4], and it has multiple uses: it serves, in its normative use, to act in a wise and judicious way, to forecast others' behaviour, to comprehend how other people act, and to direct the attempts of cooperation and

competition with others. Thus, rational is what conforms to a critical and reasoned scrutiny. According to this meaning of rationality, a rational discussion about basic value judgements and a rational choice of final values should be possible too: «rationality includes the use of reasoning to understand and assess goals and values» [Sen 2002, p. 46]. However, such a strong rationality does not constitute a warrant for the solution of moral disagreement and the overcoming of the theory's fundamental incompleteness. «There will be undoubtedly remain – Sen says - cases in which the person herself is convinced that she has done just such a scrutiny [...], even though others are far from convinced. If these differences remain, the approach does not yield a way of bearing down on the recalcitrant scrutinizer» [Sen 2002, p. 49]. In any way, this aspect distinguishes Sen's metaethics from the forms of constructivism defended by Rawls, Scanlon and Nussbaum herself, which state that moral disagreement is resolvable through a procedure of confront and rational discussion.

Putnam suggested that Sen has changed his metaethical beliefs over the years, shifting from the non-objectivistic view held in *The Nature and Classes of Prescriptive Judgements*, a view that emphasized the distinction between the descriptive and the evaluative components of language, that is between facts and values, to an objectivistic view that, on the contrary, remarks the entanglement and indivisibility of these components, in line with what is held by an objectivistic metaethical theory, like Putnam's or Nussbaum's theories.

Nevertheless, after *The Nature and Classes of Prescriptive Judgements*, Sen has always been cautious in taking a position for or against a particular metaethical theory. He has never offered clear indications, not even when he has been explicitly asked for: so, for example, to Williams' question whether values should «come either from nature or from convention, or, perhaps, from some more sophisticated combination of the two» [Williams 1987, p. 100], he simply pointed out «that the exercise of valuation must involve a mixture of 'nature' and 'convention'» [Sen 1987, p. 108]. Furthermore, he has sometimes stressed that his theory is compatible with many meta-normative theories: «the use of capability approach as such does not require – he replies to Nussbaum's objectivism – taking that route, and the deliberate incompleteness of the capability approach permits other routes to be taken which also have some plausibility» [Sen 1993, p. 46]. The deliberate incompleteness of the capability approach allows different metaethical solutions. In this way it can avoid the problems related to any metaethical perspective.

§ 3. What kind of metaethics for the capability approach?

What kind of metaethical views should the capability approach assert? Probably none. The problems of the metaethical theories are neither less numerous or less complex than those related to normative theories, and this is probably a good reason why a normative theory should avoid the problems connected to any metaethical conceptions. From this point of view, for a normative theory to be neutral in regards to which metaethics should be adopted is not a fault but a merit when it is done with awareness. Although in latest years there has been a renewal of cognitivist views of a realist and non-realist kind, we cannot say that they are asserted with incontestable arguments. In general there is no agreement about which metaethics is right. Therefore, we would risk compromising also the normative part of the theory by linking it too strictly to a contestable metaethics.

Sen's route, probably, is the best: trying to build up a theory that is compatible with more than one metaethical justification. Even though the impossibility of a fully neutral metaethics with regard to normative theory is now a well established acquisition, yet it is difficult to deny the possibility of that compatibility. From this point of view, the pattern for the capability approach should be the utilitarianism (that is, its first opponent from a normative point of view), which is compatible with many metaethical views (cognitivist – naturalist, definitionist and intuitionist – and non-cognitivist), and which was historically held by authors who stated one view or the other.

Yet, this means overcoming a widely common prejudice in contemporary debate: that a public normative ethics is possible only when it is based on objectivistic and cognitivist grounds. Certainly, according to a non-cognitivist point of view, supporting a moral theory is not discovering or asserting any facts or any kinds of reality. But this does not mean that there is no room for philosophical argument and for rationality either, as Sen has pointed out; it does not even mean, when we talk about relativism, confusing a normative relativism (or a relativism of a first level), according to which we should abstain from any moral commitment, with a metaethical relativism (or a relativism of a second level), which suggests that the validity of a moral judgment is related to the subject who expresses or shares this

judgment. Within the set of values that we share (that has influenced our education or which we have consciously accepted), we can judge something as immoral and accept the existence of alternative moral systems, even those moral systems which are, from our point of view, immoral and therefore should be condemned: non-objectivism does not imply, unlike Glover's claim, that «if the ideas of justice and injustice are purely relative to a given society, we may lose confidence in our judgment that women in Bangladesh are treated unjustly» [Glover 1995, p. 128]. In the same way we can commit ourselves, in observance of ethical pluralism, to confront our moral system with alternative moral systems, and try to find common points and a permanent agreement as far as it is possible but without any warrant that it is always possible.

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