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What is development?

Abstract:

This chapter examines the relation of the Human Development or Capability Approach to liberal political theory. If development is enhancement of capabilities, then this chapter adds that development is human and social: development includes (1) the creation of value as a social process that is (2) a dialectical product of people in their relations. Specifically: (1) The place of the individual within political theory must be revised if the political subject is, as Carol Gould argues, an "individual-inrelations" rather than an autonomous individual agent. (2) New possibilities for valuation are also relational: value is created dialectically along with those possibilities through processes that may be modeled on Denis Goulet's account of dialectical recognition.

These axiological claims hold importance for the place of democratic participation in just politics and development. Building upon David Crocker's work, this chapter argues that just politics may require a participative approach that is undercut by Martha Nussbaum's suggestion that a list of central capabilities should guide the drafting of national constitutions. The assimilation of the indigenous concept *sumak kawsay* to the ideal of *buen vivir* within Ecuador's constitution is illustrative, suggesting that prior specification (a list) may limit and distort the dialectical generation of new capabilities.

Keywords: Capability Approach, constitutional principles, *buen vivir*, relational autonomy, Martha Nussbaum

What is development?

We are familiar, by this point, with what development is not. It is not gross national product, not gross domestic product divided by a country's population, not gross national income per person. It is not median household income, the latest in this family of simple economic measures (Rose, Birdsall & Diofasi, 2016). Philosophers still find it a standard move to point out the inadequacy of financial measures of development, well-being and human security (e.g., Nussbaum 2011, ix); and such repudiation is also common among economists, who hedge their claims about the value of financial measures, then proceed to rely upon them anyway (e.g., Sundaram, 2016). This remains the state of discussion even though nearly fifty years have passed since development economist Dudley Seers criticized his colleagues' "continued addiction" to simple econometrics and their "lip service" to philosophies of development. Seers continues: "we must ask ourselves: what are the necessary conditions for a universally accepted aim, the realisation of the potential of human personality?" (Seers 1969, 1, 3)

Seers calls for a theory of development; many have since written to present answers that reflect the concerns he articulates. His choice of expression, "the realisation of the potential of human personality," evokes the language of psychology. The current best effort at such a theory, the Capability Approach, instead incorporates language from philosophy, referring to liberal conceptions of freedom and an Aristotelian conception of flourishing. Development presents the parameters for such flourishing, characterizing the expansion of freedoms and the creation of capabilities worth having as the conditions for development of the good life.

This chapter is not focused upon capabilities, their characterization, or the means to their realization, though those topics will be touched upon late in the chapter. It is primarily an inquiry into axiology – also called the study of value, or

normativity.¹ Its main proposal is simple enough: value is human and social, so development is human and social. Each of these claims about value requires elaboration. First, value is human, it is characteristic of dependent, biological creatures; and second, it is social, generated by humans within social relations that involve such dependence. Because conceiving of some values involves social processes that play out over time, some revision of liberal political theory is necessary. The liberal tradition slights both relational characteristics of human life and dialectical aspects of value creation in its characterization of the autonomous individual who stands as the political subject, the subject of central concern within its theories of justice. The need for revision carries over to treatment of political process in the Capability Approach; the chapter's penultimate section will indicate that need as it pertains to Martha Nussbaum's offering of a list of central capabilities as a guide to the drafting of national constitutions.

My argument draws particularly from Carol Gould's articulation of social ontology, from Denis Goulet's account of the dialectic of recognition in underdevelopment, and from David Crocker's focus upon deliberative democracy. Given Crocker's role, the argument seems especially suited to this volume. He began his path toward understanding development more than three decades ago. He was influenced particularly by Seers' question, his own early study of humanist Marxism, and Goulet's action and philosophical reflection. Crocker's approach has since converged with the Capability Approach, and he endorses and articulates an "agency-focused version of capability ethics" in *Ethics of Global Development.*² Crocker's work began especially as an intimate study of the political articulation of

¹ Joseph Raz provides a contemporary account of normativity in *From Normativity to Responsibility* (2011, 1-8). This chapter is pursued especially in the spirit of Putnam's naturalist account of normativity (2002; and see De Caro, "Introduction," in Putnam 2016, 15-16). I limit discussion to "human" development in this chapter for simplicity. Like Nussbaum, I take subjects with standing for consideration in politics to include those with sentience (2011, 158). Argument in this chapter may suggest that subjects countenanced within development could include any beings with which one has relations that involve, or might in future involve, mutual value relations. Examples include humans, humans of future generations, house cats and muskrats, but not extinct dodos and not objects such as stones that we may or may not value, but that could not themselves conceive of value.

² Crocker 2008, 1. For an autobiographical account of Crocker's developing relation to capability theory, see the opening pages of the book.

development; the following section will show how it continues to display that focus after he joins his thought with the Capability Approach.

David Crocker's critical study of development

David Crocker's contribution to the ethics and politics of global development grew from roots in critical theory and Latin American politics. His early writing followed upon study in the mid-1970's with Belgrade social theorists Mihailo Marković and Svetozar Stojanović, who led an intellectual circle and produced a journal, *Praxis*, that aimed to create "a body of thought which is uncompromising in its rejection of all forms of human alienation, exploitation oppression and injustice, regardless of the type of society – bourgeois or socialist."³ A visiting professorship in Costa Rica in 1986-7 allowed Crocker a perch from which to view and reflect upon policy developments, some of which reflected what John Williamson would characterize late in the decade as "the Washington Consensus." Costa Rica was turning toward international markets at the time and reducing the state's role in economic decisions. This was a shift away from social democracy and import substitution industrialization, an economic strategy intended to limit a nation's dependence on foreign markets. Crocker urged in place of both old and new trends "an ethically superior development model that gives highest priority not to economic growth but to basic human needs, democratic self-determination, environmental respect, and the real opportunity for personal development." (Crocker 1989, 317) He named his view "participative eco-development"; it featured the abovementioned four "fundamental, normative principles" and allowed for the possibility of conceiving further dimensions for development theory.⁴

³ Gerson Sher, "Tito Muzzles the Loyal Opposition," *The Nation* (New York, N.Y.), March 15, 1975, 294 (quoted in Crocker 1983, 1).

⁴ Crocker 1989, 318, 321. This article is the third of Crocker's opening trio for *Revista de Filosofía de la Universidad de Costa Rica*, which includes (Crocker 1987) and (Crocker 1988). See also the effective synthesis of these works in (Crocker 1991b) and its companion piece (Crocker 1991a). These writings develop ideas first presented at the 1984 Symposium focused upon development at the World Conference on Future Studies and the first International Development Ethics Association conference in 1987 and 1989 (see Crocker 1991b, 461).

Crocker was one among philosophers from several traditions articulating new thinking on the relation of human concerns to older political and economic ideals of development. The "satisfaction of basic needs," which Crocker lists first among his principles, had been introduced into international development as an ideal at a 1976 International Labour Organization conference. The Basic Needs Approach also took root within the United Nations agency charged with the promotion of technical assistance, the UN Development Program. Crocker's approach, by contrast, focused upon harmony with the environment and on democratic deliberation in the context of development. Alongside humanist Marxism, Crocker would find inspiration in American pragmatism, especially due to a summer's study with Richard Rorty in 1979. These influences led him to call for a "development theory-practice" focused upon both "insiders" and development workers as "partial insiders," rather than upon the national and international institutions that promote uniform development standards (Crocker 1991b, 459-61, 468-69; Crocker 1991a).

The separation from formal global institutions distinguished Crocker's approach from Amartya Sen's emerging paradigm in economics and philosophy, the Capability Approach. With Sen's support, the approach was well suited to find its place within the UN Development Program, providing the underpinnings for its first *Human Development Report* of 1990. The Capability Approach would gain Martha Nussbaum's attention and in the late 1980's she would connect it to her own thoughts on Marxian and Aristotelian conceptions of development (2000, 70; 2001, xix). Nussbaum conceived her exploration of capabilities first as the identification of "certain features of our common humanity" (1987, 27) and later also as "the basis for fundamental political principles focused on the lives of women in developing countries," as she puts it in *Women and Human Development* (2000, xiii). This would lead her to an argument concerning constitutional principles, particularly detailed in *Frontiers of Justice* (2006) and work thereafter. Crocker's engagement, by contrast, was grounded in "the cultural identity of groups, populations, and societies," with a focus on their self-determination (1991b, 462).

The Capability Approach in its early development, then, was built from economic philosophy engaged with international institutions by Sen. Nussbaum added an Aristotelian theory married to liberalism. And Crocker's participative ecodevelopment approach arose from social theory and engagement with peoples and development practitioners. Crocker's distinctive background emerges within a reply to Nussbaum's well-known proposal of a list of the central human capabilities and its use in politics (Crocker 2008, ch. 6). I will suggest in the next section that the developmental path that Nussbaum's theory takes, particularly over the span from 1987-2007, may serve to explain some characteristics that have left it subject to Crocker's criticism. Nussbaum first discusses capabilities in an Aristotelian reply to Rawls's liberalism and she settles upon the ideal of constitutional guarantees for capabilities later. As her work develops from philosophical analysis of politics to claims about the actual operations of government, and as she particularly develops an account of the function of a constitution in a just society, her proposal retains a specific role for a philosopher within a political context – and there's the rub.

The development of Nussbaum's list and Crocker's critical rejoinder

Aristotle serves Nussbaum as a fruitful source for criticism of contemporary liberal thinkers and in that context his writing provides the platform for her first articulation of the capability approach. In "Nature, Function and Capability: Aristotle on Political Distribution," which first appears as a 1987 working paper at the United Nations University World Institute for Development Economics Research (UNU-WIDER), Nussbaum brings Aristotle's thought to bear on John Rawls' account of distributive justice. Her focus is upon wealth and worth:

No item's worth can be properly assessed if we do not set it in the context of a thicker theory of good living; and when we do so, we discover that wealth has no independent worth. Rawls's theory, then, is too thin. His list ... ascribes independent significance to items whose worth can only be seen in connection with the truly primary items. (1987, 10)

Nussbaum's analysis contrasts those truly primary items, capabilities, with Rawls' concept of primary goods. One primary good is wealth; other "social primary goods"

that Rawls notes show a closer relation to the central capabilities that would appear later in Nussbaum's lists, as he includes rights, liberties, access to political institutions and access to other social institutions that support "the social bases of self respect."⁵ Nussbaum characterizes the "truly primary items" which promote the "functionings of individuals" as internal capabilities ("I-capabilities"). These differ from the "external conditions for those functionings" (the "E-capabilities"), including wealth (1987, 22, 24). Some internal capabilities may be developed through external conditions afforded by the state – through a system of public education, for example. Nussbaum argues that "Aristotle repeatedly insists that one of the legislator's first and most essential tasks is the provision of an adequate scheme for the education of the young" and she generalizes this view to indicate the role of the state in the "development of I-capabilities." (21)

"Nature, Function and Capability," then, shifts the focus in political theory from the classic foci of distributive justice to the E-capabilities. It introduces a discussion of the role of the state that develops greatly within Nussbaum's writing over the following two decades. The article lays the ground for her list of central capabilities in the claim that "we need to specify the list of things that we want people to be capable of doing and doing by their choice." (1987, 12) Beyond supporting external conditions for I-capabilities, the role for the legislator is not further developed in the 1987 article, which, as the title indicates, is a discussion of "Aristotle on political distribution." In the early 1990's Nussbaum develops her list of "Basic Human Functional Capabilities" and argues that ideals such as these should "be the goal of legislation and public planning." (1992, 221-222) Later, her claim is more specific: "the idea of a threshold level of capabilities, can provide a basis for

⁵ A Theory of Justice [1st edition, 1971], 62; and see Justice as Fairness, a Restatement (2001, 58–59). In Restatement, Rawls writes of "Income and wealth, understood as all-purpose means (having an exchange value) generally needed to achieve a wide range of ends whatever they may be." The revised edition of A Theory of Justice (1999) almost exactly preserves the first edition's introduction of primary goods: "For simplicity, assume that the chief primary goods at the disposition of society are rights and liberties, powers and opportunities, income and wealth. (Later on in Part Three the primary good of self-respect has a central place.) These are the social primary goods. Other primary goods such as health and vigor, intelligence and imagination, are natural goods; although their possession is influenced by the basic structure, they are not so directly under its control." (1971, 54)

central constitutional principles." (2000, 12; see also, 2002; 2003) New detail in political and legal theory arises in writing from 2006 forward, as Nussbaum articulates her account in light of Rawls' *Political Liberalism* and remarks that "One way of thinking about the capabilities list is to think of it as embodied in a list of constitutional guarantees, in something analogous to the Indian Constitution or the (shorter) Bill of Rights of the U.S. Constitution." (2006, 6, 155) Nussbaum's constitutional argument might be taken to have reached full maturity as she presents it to U.S. jurists, highlighting an Aristotelian thread in the fabric of the modern legal tradition, in a *Harvard Law Review* article of 2007:

For several centuries, an approach to the foundation of basic political principles that draws its key insights from Aristotle and the ancient Greek and Roman Stoics has played a role in shaping European and American conceptions of the proper role of government, the purpose of constitution-making, and the nature of basic constitutional entitlements. This normative approach, the "Capability Approach" (CA), holds that a key task of a nation's constitution, and the legal tradition that interprets it, is to secure for all citizens the prerequisites of a life worthy of human dignity — a core group of "capabilities" — in areas of central importance to human life. (2007, 7; see also 56-73; fn. 15)

What was developed in 1987 as a list of characteristics of "humanness" coupled with Aristotle's views of the role of the "legislator" in their cultivation, then, has developed into normative claims about entitlements within national constitutions (1987, 47). Nussbaum's thought evolves from political theory to claims about actual governance, yielding a list that would eventually be directed as much to practicing legislators as to academic philosophers. This political ideal provides a specific role for the philosopher in political discussion (2000, 104), presented in the "contention that the capabilities are a template for constitutionmaking or for constitutional entitlements in nations without a written constitution." (2014, 4)

Amartya Sen has at times greatly overstated Nussbaum's claims regarding both characteristics and uses of such a list of central capabilities. Sen worries over the possibility of its use as a piece of "pure theory" in "a cemented list of capabilities, which is absolutely complete (nothing could be added to it) and totally fixed (it

could not respond to public reasoning and to the formation of social values)." (2004, 78) Some of Nussbaum's own words may point to such interpretation: the expression "template" suggest as much, as does an early article, "Human functioning and social justice: In defense of Aristotelian essentialism," which purports to characterize over five pages "the shape of the human form of life" (1992, 216-21). Even within that presentation, however, Nussbaum also presents her "essentialist proposal" as "a thick vague theory of the good" – so it is "theory" (and not "cemented") and it is vague, "deliberately so ... for ... it admits of much multiple specification in accordance with varied local and personal conceptions." (Nussbaum 1992, 215; and see Keleher 2014, 25-8) Sen would prefer that simple openness replace such flexibility: "public discussion and reasoning can lead to a better understanding of the role, reach, and the significance of particular capabilities." (Sen 2004, 79) He also holds that "some of the basic capabilities (with which my 1979) Tanner Lecture was particularly concerned) will no doubt figure in every list of relevant capabilities in every society," so Sen also has a list – his concern lies in its proposal in the political forum (Sen 2004, 79).

David Crocker is also concerned especially with the list's influence upon the function of public reasoning. It is a philosopher's intrusion, a prior theory that encumbers the theory-practice of politics: he writes, "while philosophical dialogue aims solely at the truth or at least at reasoned agreement on beliefs and values, in democratic deliberation fellow citizens deliberate over, decide on, and bind themselves to problem-solving policies that most (all) can accept." (2008, 199) In the context of the creation of national constitutions, "people have the right and responsibility to form collective values and decide practical policies together."(208-9, and see 196ff.) These concerns continue a line of thought from much earlier in his writing, the view that we ought to elucidate "valuational dimensions… in ways appropriate to any basic beliefs – through critical dialogue." (1991b, 467)

Crocker, then, has doubts about the philosopher's assumed role, and about the approach from a "template." His attention continues to focus on the shapes that power takes within hierarchies and groups and on the possibilities for improvement

offered by individual agency, participatory democracy, and development work. In such criticism, born of work spanning three decades, we find a distillation of what has made Crocker's effort distinctive and especially valuable as a contribution to the characterization of development and its ethical practice. Crocker's early focus within Marxist humanism laid the ground for his challenge to Nussbaum's approach to framing constitutions. This chapter will extend the challenge, following a foray into axiology.

Liberal individualism, relational autonomy, and dialectical change

"Collective values" and "shared values" are expressions that are familiar enough. They are often meant to indicate that members of a group arrive at a condition that each individual agrees to or tacitly admits to, perhaps through consensus, democratic politics, or continuation of a practice.⁶ A group of friends agrees to watch one movie that some prefer tonight, planning to re-assemble another day for the option preferred by the others; a legislator convinces her party to vote for and pass a bill; I see the point of laws that keep traffic on the right side of the road – these are cases that display the presence of values that reflect our choices for coordination and for collective decision-making.

In some cases, the values we arrive at have a distinctive property: they would not otherwise have been conceived by any of the individuals among us, but for the activity of the group, or of a group in the past. An example developed later in this chapter presents the possibility that individuals within different cultures may understand relationships to nature in very different ways that are "incompatible" (Cortez 2014, 337). Such incompatibility suggests that, to explain the difference, a story needs to be told about the way individuals in the cultures think of value, and an account explaining the fact of what they value will say too little. To explain both value and fact, the story would have to consider the history of people interacting,

⁶ David Gauthier's *Morals by agreement* was a particularly clear attempt at analyzing value along these lines, with the goal of "showing why an individual, reasoning from non-moral premises, would accept the constraints of morality on his choices." (1986, 5)

with different histories informing different values for various people. Such history of cultures may explain how value is conceived, as well as indicate what is valued.⁷ So, there is a second sense in which these particular values are collective: they are born of collective activity that goes beyond being agreed upon by a collectivity of individuals.

I suggest that values relevant to adequate political and development theory are created as historical products of interaction that is not just agreement among individuals. To articulate this view I will draw from Carol Gould's formulation of feminist relational theory and Denis Goulet's development theory. I will invoke a familiar theory of process and say that values are dialectical products, or (better) dialectical processes, since they may continue to change. The products, but not the processes, are acknowledged within the reasoning and agreements at the focus of liberal theories, but accounting for the values of individuals in this way will not provide a sufficiently comprehensive account of the political process that allows us to discern just political arrangements or ethical development. Modern liberal theorists since Immanuel Kant, however, do generally maintain that agreement by individuals, under appropriate conditions, will suffice. I argue that such a modern conception gives too slight a regard to the social processes from which values that would not otherwise have come to be recognized are dialectically produced, and it may, as a result, yield too spare a treatment of public reasoning.

Kant presents the paradigm formulation of the modern assumption that the autonomous individual is of value, beginning the *Groundwork of the Metaphysics of Morals* with the claim, "It is impossible to think of anything at all in the world, or indeed even beyond it, that could be considered good without limitation except a good will." (4:393) The individual discerns value through practical reason, which generates a maxim that reflects Kant's opening claim (4:420-1, footnotes). The person of good will subjectively recognizes the absolute value of each will by

⁷ On "fact" and "value" in this paragraph, see Putnam 2002, 96-98. On taking values as historical products, see Putnam 2016, Chapter 3, especially p. 63. The "incompatibility" between two cultures I mention is not intended to imply that incompatibilities in value cannot be reconciled: if fact and value are entangled, experience and discussion might reconcile divergence.

observing rational limits upon individual activity; the modern state presents an "objective" solution to such problems of encroachment (Metaphysics of Morals, 6:307-311; see also *Perpetual Peace*, 8:349). Those rational limits are the transmuted remnants of the ideal of interpersonal agreement that is found in the social contract tradition prior to Kant: his rational grounding for the state rejects both the historical fiction of the agreement that dissolves the state of nature in Hobbes and the explicit contract suggested by Rousseau. Instead, Kant holds that the "ethical law-giving" of the individual will determines "morality" and its law. The process is "internal" and subjective, and it underwrites "external lawgiving": it provides the basis of "right," which is "the external and indeed practical relation of one person to another, insofar as their actions, as deeds, can have (direct or indirect) influence on each other." (6:219, 6:230) The state is that external or objective lawgiving: "a system of laws for a people ... [who] need a rightful condition under a will uniting them, a *constitution*, so they may enjoy what is laid down as right." (6:306, 6:311) This is an atomization of the older social contract model of political relations, reducing interpersonal agreement to the pure practical reasoning of each individual. Kant also holds that the state is a "moral person." Though it is not actually composed through agreement, it is not a mere fiction; it is an entity, a "society of human beings that no-one other than itself can command or dispose of" (8:344). Kant's state is an image of the Leviathan, Hobbes' artificial person that is produced by agreement and able "to submit their wills, every one to his will." But in Kant the genuinely social remnant of the contract has disappeared: political theory and ethics become the purview of autonomous individuals as each submits to law that is the individual's own lawful willing. I need only check with myself and I need not contract with others: this is the case for each autonomous, reasoning individual who operates as legislator within "the kingdom of ends" (4:432-433).

The places Kant gives to the state and its constitution in the passages just noted indicate how liberal theories generally continue to treat the apportioning of value (to individuals), the conferral of value (by individuals) and the discernment of shared value (by individuals who generate agreements) (e.g., Korsgaard 2009, 123,

157). The political sphere is taken foremost as a space for ensuring that the individual is treated fairly, or is treated with dignity. Acting within the political sphere, we individuals agree to and commit to freedoms and entitlements for all; or, in Kant's terms, each of us legislates for himself or herself within the kingdom of ends. John Rawls carries the Kantian tradition forward by carefully disentangling political theory from Kant's metaphysics, arriving at the position of "political liberalism." For Rawls, "the constitution is seen as a just political procedure which incorporates the equal political liberties and seeks to assure their fair value so that the processes of political decision are open to all on a roughly equal basis." (1993, 99-116, 337) Nussbaum draws these threads into her own thoughts on constitutions and the Capability Approach.

Within liberal political theory, then, the focus rests upon freedoms for individuals and agreements that are attuned to reasoning by and deliberation among individuals. I think it is not misleading to rephrase this as the claim that individuals are the subjects of political theory, or are fundamental as the subjects countenanced within just politics; that is, value is conceived and understood by the individual, judged to belong to just social arrangements through employment of a capacity for practical reasoning by the individual, and evaluation occurs in reference to the good of individual humans, and perhaps also other sentient creatures.

I propose an alternative account. First, at least some value is collective in the second (dialectical) sense outlined at the start of this section. Second, an alternative account of the subject within political theory can be paired with such a theory of value: an account that takes each subject not as an autonomous will, but as an individual-in-relations. I will note two sources for such an account. Carol Gould's social ontology challenges the liberal conception of the individual, replacing it with the individual-in-relations. Denis Goulet's dialectical theory of development implicitly presents an account of the creation of value through social processes. For the purposes of political theory, these two modifications may be required to assess justice. They may similarly be required to assess development.

Carol Gould on autonomy and Denis Goulet on dialectical change

Carol Gould's *Interactive Democracy* presents an account of the individual's place within just political arrangements. Gould draws upon recent work in feminist relational theory, a generalized and theoretically attuned descendant of care ethics.⁸ Before approaching Gould's account, consider an explanation of the relational character of the individual and her responsibilities within care ethics, authored by Selma Sevenhuijsen:

The ethics of care starts from the recognition that care is a moral practice, a disposition, a daily need, and a way of living. In opposition to individualism and neo-liberalism it acknowledges vulnerability, interconnectedness, dependency embodiment and finitude as basic characteristics of human life. (Sevenhuijsen)

The individual, for the purposes of ethical theory, is understood within the context of such relations of connection to others. This is the starting assumption for an account of relational autonomy: autonomous activity is pursued in a context, and in that context the individual's possibilities for choice are tied to embodiment and to others' choices. Sevenhuijsen continues:

[The ethics of care] develops a set of values and virtues about how to deal with this in a potentially wide range of practices, from child care and care for the elderly, to psychiatry, economy and international relations. It acknowledges the contribution of all the participants in caring practices in the deliberation about what constitutes a good life and good care and about the practical conditions of its provision.

Care ethics displays values that appear particularly in caregiving and in women's lives. Care is of political relevance: as the call of second wave feminism reminds us, the personal is political. Sevenhuijsen concludes her gloss with a call to reform politics: "Of course this implies a normative position in itself: caring about care implies democratic and inclusive forms of deliberation and a broad notion of citizenship." (Sevenhuijsen)

⁸ For an introduction to feminist relational theory that pertains to the account in this chapter, see Gould and see especially the "Introduction" and the essay by Linda Barclay, "Autonomy and the social self," in Mackenzie & Stoljar, 2000.

Care ethics enriches liberal political theory by displaying how choices and relations are informed by values that are neglected in non-relational framings of human well-being, goodness, and justice. The social arrangements that reflect women's activities contribute to shaping the rights-holder, or the subject within liberal theories of justice. Carol Gould's introduction of relational theory in *Interactive Democracy* extends Sevenhuijsen's line of thought, providing an explicit challenge to liberal theory:

Going beyond liberal understandings of the individual (whether in terms of rational choice or utility maximization), the theory of social reality (or *social ontology*) that underlies this work takes people to be "individuals-in-relations." As subjects, they have a capacity for freedom, but also require a set of basic conditions to make this freedom effective, including equal forms of social recognition and access to the material means of life. The human rights that protect and give expression to their freedom go beyond bare legal requirements to moral desiderata; they serve as goals for developing political, economic, and social institutions that would help to fulfill them. (Gould, 2014, 3)

Gould indicates in the first sentence that the liberal understanding of the individual may be an inadequate concept for politics. She situates human rights as both ends and means, since they may create some of the conditions for their own realization. She is also expressing a political approach that is familiar from Marx: the analysis of the conditions for the maintenance of political order, or the conditions for a reproduction of society over time, either as a dynamic or as a static (unchanging) social order.

Gould's re-conception of individuals as individuals-in-relations presents a radical critique of the modern liberal conception of the individual as the subject of politics. Women's practices marked by caring relations are among the institutions of society that produce the conditions under which people gain their capacity for freedom. Gould also slips the expression "developing" into her explanation: though she is writing about social ontology, she may also be indicating that value is produced dialectically. The institutions we navigate may inform our understanding of freedom, since values to which individuals aspire are products of the social

conditions in which the individuals find themselves. As Georg Lukács explained, "It is not men's consciousness that determines their existence, but on the contrary, their social existence that determines their consciousness." (1972, 18)

The idea that both value itself and the freedom to achieve what one values are generated through social processes has also been articulated in the context of development theory by Denis Goulet. Central to his account of development is the moment of recognition of difference and vulnerability that arises from the comparison of one's own condition with that of another. Goulet's explanation is implicitly patterned on the dialectic of master and slave; he refers to the dialectical moment of recognition as "the shock of underdevelopment," suggesting that a shock of realization that occurs when one is faced with another produces the condition within which the individual conceives of new possibilities for living (1971, 26). This leads to a collective condition that may then create political change in the process of development:

Once they become conscious of the meaning of their situation of deprivation, masses throughout the world begin thinking in explicitly political terms. This happens in all serious efforts at cultural mobilization. ...They now begin to experience their condition as unnecessary vulnerability in the face of death, disease, hunger and the quest for dignity and freedom to control their own destinies. (1971, 42-44)

Goulet's account is implicitly patterned on Marx's idea of class consciousness, the situation of a group coming to realize that it is a "class for itself." His point, with the Nineteenth Century trappings removed, is that new understanding that could not otherwise become available arises through human interaction, and political change that is development arises through such understanding.

If, as Gould argues, social and material conditions produce the subject of politics and if, as Goulet argues, the ability to conceive of new possibilities is the product of social interaction, then political approaches that neglect such interaction and such conditions will be prone to disregard aspects that are of importance to development. To close this chapter, I will try to explain these concerns in the context

of Nussbaum's suggestion of a role for a list of central capabilities as a "template for constitution-making."

Central capabilities, important capabilities, and constitutional guarantees

Nussbaum has clear and excellent reasons for demanding that central capabilities should find their image within law: she wishes to ensure "fundamental political entitlements" that reflect dignity, she wishes to ensure these through liberal democratic processes, and she is aware that politics occurs in the context of struggles within which some are at a disadvantage – especially minority groups within nations and women around the globe (2011, 19, 71-73). Nussbaum finds use for the language of rights, as opposed to capabilities, in politics, since, "To say 'Here's a list of things that people ought to be able to do and to be' has only vague normative resonance. To say 'Here's a list of fundamental rights' is more rhetorically direct." (2000, 100; see also 2011, 68) And she finds merit in situating rights within slowly-evolving foundational documents – state constitutions that enumerate freedoms "central for political purposes" and that provide "supramajoritarian protection" against "majority whim" (2011, 72, 73; and see 2016b).

As Crocker notes, Nussbaum tends to place the responsibility for determining such protections with politicians working in consultation with philosophers. Philosophers provide "the philosophical underpinnings for an account of basic constitutional principles that should be respected and implemented by the governments of all nations, as a bare minimum of what respect for human dignity requires." (Nussbaum 2000, 5; see also Crocker 2008, 162; 197-199) Nussbaum has taken the position that "Citizens can deliberate about the fundamental political principles for which they want their nation to stand – if they are framing a new constitution, for example" (2011, 74), but she also frequently places politicians, as representatives of the people, in this role (2000, 104; 2016b, 303; see also Crocker 2008, 199-200; 207-9). Here the focus will be upon possibilities that may be foregone if philosophers' lists and politicians' interpretations obviate or dominate

popular voices within constitutional conversations. Public discussion might unearth ideals of "minimal social justice" (Nussbaum 2011, 73) that stand as alternatives to those noted by democratically elected politicians or listed by any philosopher. One problem, which relational theorists would affirm, is that the politicians may be insufficiently aware of all parties' concerns if they are not required to engage in ongoing consultation and, indeed, in ongoing critical dialogue with those parties. A second and more telling problem lies with essentialism: if value is a social product, the essentialist (or the"thick and vague" theorist of the good) will be unaware of possibilities that arise through dialectical processes, such as critical dialogue. The emergence of new possibilities not previously understood may even be hampered by discussion that is structured at the outset by a list of central capabilities for framing a constitution.

A new term may be useful that allows for distance from the essentialist position. I propose that some capabilities are like those Nussbaum refers to as "central": they should be recognized as of highest importance in understanding wellbeing once they are grasped, and many of them will deserve constitutional guarantee. These are capabilities that come into being because (1) critical dialogue will unearth some of them, (2) economic and social conditions will make others possible, and (3) political contest will create others still. I will refer to these simply as "important" capabilities that are also salient to national constitutions. Such important capabilities might, following their recognition, be incorporated as new material under one of the ten central capabilities of Nussbaum's list. But some of these important capabilities, as I will argue at the end of this section, would not have appeared upon any thick and vague list that had previously been offered by a philosopher, or would not have been generated through discussion with a philosopher. Some of them might not be successfully subsumed and so may serve to destabilize a list of central capabilities. Dialectical processes may send some capabilities out of the constitutional orbit, bring new ones into being, and bring them into that orbit. Important capabilities present a challenge, then, to essentialism, or to a thick vague theory of the good, because we learn what is of

value, including what should be included in a political constitution, through experience of the facts and through processes of political struggle.

Thorough defense of these claims would require another paper, so, for this chapter, what must suffice is an explanation of how the link of central capabilities to constitutions might be effectively replaced with an account that refers instead to important capabilities (that is, evolving, non-essential ones). Some cases regarding the creation and alteration of constitutions are included to indicate that these concerns are not merely abstract.

I begin from the assumption that a national constitution need not enumerate all central or important capabilities that are necessary for the well-being of the people: neither all of Nussbaum's central capabilities, nor all of what I call important capabilities that are appropriate for a given time, need be treated in legal rights. Instead, as other philosophers have suggested, "specific human rights respond to familiar and recurrent threats to fundamental human interests" (Nickel 2007, 3); similarly, rights may also include commitments to accessible opportunities for advancement of human flourishing, as is the case, for example, in the right to education. What has frequently found its way into constitutions in the past and what belongs within planning for a new constitution, I suggest, is language that addresses familiar recurrent threats and accessible opportunities.

Threats are addressed through rights, but new threats arise under particular historical conditions and old ones depart. A new constitution should reflect its era and an old one should be rewritten, or should track history through amendments. For an example of a new threat, the legal right to privacy appears to be a recent and developing innovation in response to such threat (Clapham 2016, 113-20). The suggestion that a state should ensure "provisions for a zone of personal privacy" (Nussbaum 2011, 40) may be one that is appropriate in some historical conditions—from the era of ubiquity for printing presses and up to present – and not in others. This is not to say that abuse of privacy is acceptable in other circumstances; rather, there may be circumstances in which a government cannot or need not play the role of guarantor, since, once again, "specific human rights

respond to familiar and recurrent threats to fundamental human interests." New important capabilities will also come into being in future. For example, no capability for access to the internet existed before the latter half of the 20th Century, and the capability did not become an important one, in the sense intended here, before perhaps the 21st Century. That capability may now rate as important, as emerging international and national norms suggest (UN 2003; UN 2015, 9.c; Ecuador 2008, Article 16.2).

Among currently accessible opportunities is "an adequate education, including, but by no means limited to, literacy and basic mathematical and scientific training." (Nussbaum 2011, 33) Education is thus incorporated under Nussbaum's fourth central capability, "Being able to use the senses, to imagine, think and reason." Education was framed as a responsibility of the state by Aristotle, as Nussbaum notes (Nussbaum 1987, 21), but it has only recently been treated as a guarantee for all people, since such education is made possible in certain economic and social conditions that have only recently arrived. A right to universal education probably could not have been supported as a state responsibility before the Twentieth Century, except in a very limited number of cases. For perspective on this choice of date, consider national and global advances in popular education. England, which was a European leader alongside Netherlands, achieved 50% literacy for men about 1650, and the same for women about 1850 (Clark, 179). Over the century leading up to 1900 the world literacy rate is estimated to have about doubled, reaching 21%. State guarantees demand particular social conditions, such as a sufficiency of literate people to both run the state and provide universal education. Though Cuba's 1961 literacy campaign provides a shining example of rapid improvement as Cuba increased its literacy to beyond 96% in just nine months, it began its campaign with an 85% literacy rate, according to one of the program's architects (Prieto 1981, 221). Consider India's case: efforts at establishing a right to education date at least from 1910, but the right to education only came to be recognized in India's courts more than 80 years later, and the clause "the State shall provide free and compulsory education" was inserted into India's Constitution as

article 21a in 2002 (Selva 2009). The ideal of a right to education was expressed as Article 26 of the Universal Declaration of Human Rights (UDHR) in 1948, so it appears that it was available at the drafting of India's Constitution in 1950, but was set aside. Though capabilities refer to what people deserve, constitutions refer to what states can deliver, and they should reflect the maximum of important capabilities states can be expected deliver (see also, Crocker 2008, 205). Constitutions might sensibly be limited to justiciable guarantees, or might add directive principles for courts (McLean 2009, 7-14), or further add directive principles for policy, as India did for education in 1950, leaving further aspiration aside (India, 39, 41).

The above sketch indicates how a changing set of important capabilities might take the place of central capabilities and how constitutions may be limited to contain less than a full set of important capabilities. A greater concern for approaching a constitution with a list in hand is that philosophers – and representatives, too – may not be in a position to identify rights that are important to members of groups to which they do not belong. I have in mind political struggles in which individuals come to understand their group identity through struggle. Before they have self-identified as a group, the individuals may experience their social exclusion as dysphoria, or they may adapt their preferences instead of grasping that a lack of appropriate entitlements is the source of their malaise, and they may not be capable of identifying or articulating their demands for rights until the political process is under way. A well-documented case of such dialectical development is the homophile movement of USA, a political effort that played out from the 1940's up to the period of gay activism starting with the 1969 Stonewall riots (Faderman 2015, 53-113). In such a situation, I think, both political representatives and thoughtful philosophers may fail to identify the concern, or might identify the concern as pathological. That is to say: a list might be of no help, or might be routinely interpreted by philosophers and representatives in ways that obscure others' concerns, dissipating class consciousness.

For a constitutional case, consider Ecuador's national interpretation of the "Rights of the good way of living (*buen vivir*)" articulated within its recently adopted Constitution (Ecuador 2008, Preamble). Ecuador also frames this conception as "*sumak kawsay*," a Kichwa dialect term. Eduardo Gudynas characterizes *sumak kawsay* as "fullness of life in a community together with other persons and Nature," in which "Nature becomes a subject; human beings as the only source of values are therefore displaced." (442, 445) As *sumak kawsay* is articulated in the constitution, it entails "rights of nature," including "the right to integral respect for its existence and for the maintenance and regeneration of its life cycles, structure, functions and evolutionary processes." Nature also has a "right to be restored" (Ecuador, Articles 71, 72, 83). Each person has rights to live "in harmony with nature" and has attendant individual duties to "respect the rights of nature, preserve a healthy environment and use natural resources rationally, sustainably and durably ... in harmonious coexistence with nature." (27, 83; see also 275)

This matrix of rights and responsibilities may suggest that Ecuador's Constitution supports a central capability that Nussbaum characterizes as "being able to live with concern for and in relation to animals, plants, and the world of nature" (2011, 34). But the rights of nature and the correlate of an individual's responsibility toward nature that are called for in the constitution suggest that a very different claim is contained in this ideal of living harmoniously with nature. Indeed, this ideal may not be compatible with the liberal conception of the individual, since Kichwa political activists have explicitly identified it as a genuine departure from liberal conceptions of individual rights and of individualism (Becker 2011, 48, 51). Nussbaum may have conceptions of *buen vivir* and deep ecology in mind in *Creating Capabilities* as she notes a "basic position" concerning "animal entitlements" to which she does not subscribe, in which "Individualism [of all living organisms] is dropped [and] the capabilities of systems (ecosystems in particular, but also species) count as ends in themselves." (158) Nussbaum admits that she cannot yet make sense of the position and then she concludes "[t]hat animals can suffer not just pain but also injustice seems, however, secure." (159) This is a

fallback to individualism that the Kichwa activists would appear not to find satisfactory. So, I expect *sumak kawsay* simply does not fit within Nussbaum's list. That it is not on the list and does not fit the list should not be taken to suggest that it is not a capability that is important in the sense indicated in this chapter. Indigenous activists have argued that *sumak kawsay* is central to their concept of well-being and they credit its establishment in the constitution to "decades of resistance and social movements, the indigenous movement, and diverse sectors of the Ecuadorian peoples." (Becker 2011, 59)

Debate has also arisen as to the meaning of *sumak kawsay*. Despite its presence in the constitution, the understanding of many of those engaged in drafting the document may have diverged greatly from the understanding of people who received the concept within its original cultural context. One development expert and government official, René Ramírez Gallegos, sees a close connection of sumak kawsay to Aristotelian thought (Ramírez 2010, 8, 49). European academics Laura Portela and Carmen Ayerra have taken *sumak kawsay* to "very loosely" approximate the concept of capability, but find the concept of "ecodependence" a better fit (Portela & Ayerra 2013, 159). Ecuadorian philosopher David Cortez cites native Kichwa anthropologist Carlos Viteri Gualinga to argue that the constitution's treatment of *sumak kawsay* as one approach to *buen vivir* reduces the former, yielding a conflation of "being with Mother Nature" and "conditions for social welfare" (Cortez 2014, 321; see also Tibán 2000). Cortez finds improvement upon "economic liberalism" in the importance Nussbaum gives to nature (326); nevertheless he finds that Nussbaum cleaves to "a western anthropocentric system" and he concludes:

the notion of "human development" in the approach to good living in the [Ecuador] National Development Plans and similar concepts such as "capabilities" and "quality of life" found in the readings of Amartya Sen and Martha Nussbaum reproduce an economic and political narrative that is incompatible with the perspective of *sumak kawsay*, which has lately emerged as a critique of liberal paradigms. (326, 337)

I do not wish to suggest that the introduction of a list of central capabilities such as Nussbaum's has in fact been deleterious to the drafting of Ecuador's constitution, or to the introduction of *sumak kawsay* into its text. But the turns of critical dialogue noted above suggest that a misunderstanding has arisen. The familiar language of development economics, liberalism and capabilities may cant understanding, where such language frames discussion. So philosophers, government officials and representatives with backgrounds dissimilar to others within the community may present a "thick, vague theory of the good" that leaves too thin a space for public reason, and so, may obscure alternatives. At the least, such initial offering of language will produce much greater demands upon those who might hope to express very different views and values in diverse languages. If the public forum is not sufficiently open then there are hazards even in the proposal that we view Nussbaum's list "as a stimulus for public debate in the construction, interpretation, and application of constitutional principles." (Crocker 2008, 198)

Conclusion

I have argued that just politics and politics in the context of development diverge from liberal assumptions concerning the role that the individual takes in conceiving value. The liberal tradition slights the social, or the relational, in its characterization of the political subject within its theories of justice. Feminist relational theorists present a challenge to that tradition by introducing relational autonomy to supplant the liberal conception of individual autonomy. Goulet's theory of development also challenges individualism as it suggests the plausible hypothesis that value is produced dialectically through social interaction.

This suggests that politics and development are human and social: they involve the creation of value as a dialectical product of dependent, biological creatures. That claim is one made within axiology, theory of value, or normativity; it is not a claim within ethics. Within ethics, such understanding of value underwrites further characterization of what we should value to live well. If value is produced through social processes, then those processes are also the subject matter of ethical theory. And this concern finally reaches to development ethics: if the individual as

political subject is constituted in this way, and if values are created in this way, then we can find new reasons as to why democratic participation may foster development and may be the ethical choice for development as well.⁹

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