

EDUCATION: CAPABILITIES AND CONSTRAINTS

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(As a preamble to what I shall be presenting in this talk, and having listened carefully to the very informative and interesting presentations and discussions in the past two days, I would like to begin by making some explanatory remarks. First, what I shall be addressing as my main point is an issue that has one way or another already been addressed in this conference, namely, the interplay-in the context of *right*- between individual and group. Second, my starting point for dealing with the term ‘right’ is not any specific legal sense it has or it is given, but as having a free-floating common-usage meaning. Against this background, I use it to mean an enablement or capability space each individual, by virtue of being a human being, deserves to have in order to realize their best potential to be a better person. This translates, thirdly, into an individual-based ‘boundaries calculus’ –that is, a calculus defining the boundaries each person has with respect to each other individual (and not with respect to some virtual group boundary). So it is it is an equal opportunity moral map. Fourth, I believe that, starting with the capability space (which we can otherwise designate as freedom, both positive and negative); and with the opportunity borderline (which we can otherwise designate as equality) we can build up a moral order of rights, including the right for education. Freedom and

equality can thus be our basic building blocks, or our fundamental rights, from which all other rights can be derived).

For those who believe everyone has the right to life, health and education, the uneasy question remains: How much...that is, how much of these *-life, health or education* is everyone entitled to? As soon as we put our minds to trying to answer this question, we may begin to discern or prescribe differences, however slight at first these may seem: We may presume (or feel confident) that health should have no bounds. As long as someone is alive, they should be as healthy as possible. It doesn't sit straight with us if we thought that some of us should be healthier than others –even if this were just a frequency probability calculation, not specifying for us who the favored ones and who the unlucky ones are to be. But a government planner in a democracy may not be as ready to pronounce such a sweeping sentiment when it comes to education. Quite the contrary, he may strongly feel it is for the *good* of society that *not everyone* should be as educated as possible. For, if we should all be as educated as possible just as we should all be as healthy as possible –the down-to-earth argument might go- who then will look after our garbage and fix our pipes? Or who will type down the great thoughts of the planner, and fix his schedule?

Life, itself a precondition for both health and education, and for many other things besides, surprisingly occupies a middle ground in our thoughts: while on the one hand it does not have the full-backing health gets as *a must for*

all (consider euthanasia, capital punishment, extra-judicial killings, etc.) it does not, like education, have that dubious honor or role of being a *differentiator* for the good of the whole –being made available or accessible just in varying degrees, even if to all.

There is, besides what I called the ‘down-to-earth’ argument for differentiating between levels and kinds of education planners believe different people should be enabled to receive, also the common rejoinder to what might otherwise seem like an unfair distribution of rights or entitlements that different people under such a system have, namely, that different individuals in any case have different capacities and skills, and should therefore be differently catered for: it would be both a waste of national resources and pedagogically sadistic to subject someone capable of doing only menial work to a rigorous program in nuclear physics. This is, of course, an ostensibly better-sounding moral argument than the down-to-earth one for differentiation, if it were not for the sad fact that, due to already-existing social, ethnic, national, and other kinds of stratifications, we all know that newborns are not all equally favored by the same enabling circumstances. Clearly, unequal enabling circumstances mean that the odds are already heavily set against certain children-populations than others to yield high-level education achievers. But, though sad, this inequality of circumstances is- as has already been stated- an undeniable fact, making the down-to-earth argument seem less unpalatable, and indeed the entire enterprise of structuring educational streams almost in factory-fashion to cater for different societal needs seem more logical –even a virtue. ‘Over-education’ –as it

might be called- especially enabled through bad state-planning and well-intended spending- is often fingered as the cause of both visible as well as hidden unemployment, low efficiency and job dissatisfaction: far better from the outset (or as near to the outset as possible) to differentiate learning streams into crafts, professions and different educational levels, than to allow for what will quickly anyway turn out to be an unsustainable, free-for-all plunge into a limitless life of education.

I realize I have not chosen the most sympathetic route to showing how a *conscious constraints* mindset can become as second-nature to moral thinking as a Sen-Nussbaum *capability* approach is to such entitlements as education. But I have an ulterior motive in keeping you, the audience, suspicious of the argument for placing conscious constraints on a moral par with the capability approach. Ideally, of course, our planner would wish to provide for the maximum capability (or enablement) possible to allow our *individual* learner to take advantage of the learning streams available, just as and with the same rigor that he or she would consciously devise and operate the checkered educational system for the benefit of the *group*, each individual being provided with the education he or she is capable of pursuing. The constraints, in other words, could well be so devised so as to be commensurate with the capabilities. However, this would happen in an ideal world. In the real world, as was already stated, social stratifications within countries typically impose a checkered system of opportunities, yielding a situation where unquantifiable numbers of individuals are not enabled to practice their right to

pursue the education they are capable of. I say 'unquantifiable' because I cannot determine, from the high-school grades of an applicant to my university, for example, whether these fairly reflect the student's capabilities, or just the cumulative score of his or her disadvantaged educational history. But the system compels me to apply standing procedures, separating between streams, and reinforcing an entire order of unfair distributions. The so-called 'good of the group', planned out by the conscious constraints policy, thus ends up in the real world depriving unquantifiable numbers of individuals from the same group from enjoying their rights.

But it does not stop here. Groups (whether ethnic, national or what-have-you) are naturally self-catering, so that the legitimization accorded to prioritizing group interests at the cost of individual rights is naturally extendable to relationships between two or more groups, where the hegemonic among them can seek and find ample justification for prioritizing its own interests over that of both the other group as well as of its members, and nowhere perhaps more obviously than in the country I believe to be mine, or to which I belong, where the constraints on education devised by the dominant (in this case –religio-national) group on both the individuals belonging to the dominated national group as well as on the group itself are clearly devised for the benefit of the first group, at the expense of the second.

Let me give two examples: A telling article was recently published in the *Harvard Gazette* by two Harvard undergraduates, both Palestinian, which describes how,

due to Israeli obstructionist measures, students graduating from high-school wishing to take the American university-entrance qualifying exams this fall in Ramallah were prevented from doing so, thereby losing their chance at pursuing their university education at places like Harvard. Apparently, getting the *Gazette* to publish the article was itself a struggle of sorts. As reported, Israel's measures in this case could be classified, not just as conscious constraints, but more sinisterly as a capability-degrading procedure, that is, as a procedure which consciously sets out to destroy capabilities or enablement circumstances. Here, then, we have a clear case of a discriminatory procedure to rob individuals from their rights of education –justified at some level, presumably, by an appeal to one or another interest or concern belonging to the dominant group. But the *ad hoc* case of obstruction of student movement mentioned in the *Gazette* has an interesting *legal* source, as evidenced in a ruling taken by Israel's Supreme Court in 2008 barring students from Gaza studying at Bethlehem University in the West Bank from reaching it, citing concerns reminiscent of Arthur Koestler's *Darkness At Noon* (that punishment is meted out for a crime –in this case, rising against Stalin- yet to be committed). The ruling of the Supreme Court here based itself on the concern that a Palestinian student traveling from Gaza to the West Bank can be used to transmit dangerous ideas to the student population in the West Bank! *Ergo*, they have to be prevented from pursuing their education.

But the dominant group can also apply its procedure of conscious constraints on whole educational

organizations belonging to the second group, as the case has been for the past fifteen years with Israel's refusal to consider Al-Quds University a legitimate Palestinian educational institution, whose degrees it should therefore consider recognizable, just like those of all other Palestinian universities. Here, the justification, if this concept makes sense in this context, has been the overriding political interest the dominant group has in not legitimizing Palestinian institutional presence in East Jerusalem.

I wish now to conclude by making a radical claim: it is once expediency was made virtue of, and the methodology of conscious constraints on a human right such as that of education was admitted as a justified practice, that the door became laid wide open for one group to abuse its individuals under the cover of legitimacy, or to abuse other groups. I am not claiming that such abuses would not have existed otherwise. But I am suggesting that they came to acquire moral coverage through prioritizing –whether through conscious planning or simply through a default mindset- presumed virtual group interests over life-and-blood individual human rights. This is something of a moral conundrum. If we believe education to be a human right, or an entitlement an individual has by virtue of simply being a human being, then under no circumstance should we tolerate this right to be taken away or sacrificed in the name of some larger or collective cause. If existing disparities in circumstances and capacities, as well as existing needs for menial jobs, cannot today but be expressed by an unequal distribution of educational rights, such a situation should not be made a virtue of,

but should be thought of as an ill that needs to be remedied rather than as a condition that has to endure. This distinction is seminal, insofar as it reflects itself on how society comes to view what may be morally acceptable, and what not, in pursuing a policy of conscious constraints. At the risk of belaboring this point, let me once again return to comparing health with education: it is a sad though an undeniable fact that not everyone has the same health dispositions, nor do they have access to the same kind of health facilities, if to any at all. The same can be said concerning education: not everyone has the same disposition, or has access to the same educational facilities, if to any at all. But now consider this: admitting these facts, we nonetheless would consider the principle unacceptable that *for the sake of society as a whole, not everyone should be as healthy as possible*. In contrast, many of us would consider it to be *good planning* and a sign of governing maturity to ensure that only a portion of society's members should be allowed to achieve university-level education, for example. In the case of health, while recognizing our shortcomings, we nonetheless at least work under the assumption these are shortcomings that we can hopefully overcome in the future. Good healthcare should be provided to all equally. In the case of education, on the other hand, because *good governance* seems to instruct us to design different educational streams that will feed into society's different overall needs, we tend to accept the principle that not all should be provided with the same good education. Terms such as 'over-educated', to designate –to pick an extreme example– Shakespearean experts who apply for a cleaning job– are part of our common parlance. Terms

such as ‘over-healthy, on the other hand, are unheard of. In other words, we just assume, implicitly, and perhaps lethargically, that not everyone has *as much* right to *as much* education as everyone else. Some *deserve* more education than others. As first-degree granting colleges, therefore, we tend to accept the standing acceptance procedure, thereby reinforcing the inequalities that already exist, oblivious to the plight of an unquantified number of disadvantaged individuals, and to the right to education we claim they have.

Naturally, as different people have different health dispositions, they also have different educational dispositions. However, while society has come to believe best healthcare should ideally be provided to all, it has come to tolerate and even approve of education being provided differentially. If it were not for an already existing unfair distribution of rights, and a mechanical procedure informed by such a system to further discriminate between student clusters, such a differential system may be morally defensible. But the system clearly discriminates against countless individuals, and society needs to come up with alternative arrangements that would truly reconcile between enhancing capabilities and providing for the different needs of the whole.

I wish to say in conclusion that I am not sure how to tackle this challenge, and moral conundrum. I feel that, besides the necessary legal instruments and constitutional measures, more direct and practical steps should be taken at the level of the educational institutions. One possible route may be to reorganize the entire structure of learning, partly by somehow merging first-degree

granting institutions into the school system, and shuffling around and integrating traditionally separate disciplines, so that craftsmanship and artistic skills can be interchangeably hewed alongside intellectual skills in the curriculum, and students can be exposed all along to these different fields, and be gently guided into choosing what fits them best; but partly also by using this extended period of compulsory education to expose everyone to what a traditionally liberal arts college is ideally imagined as providing for its students with the aim of enlightened citizens.

My prescription for the Israeli-Palestinian moral conundrum is simpler: provide equal rights –whether in education or anything else- to all, irrespective of color, race or religion.

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