



# From human capital to human capabilities

A broader normative foundation for the social investment perspective in Europe

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*This report constitutes part of Deliverable 4.1 'Theoretical and Normative Foundations for the European Social Investment Model' for Work Package 4 of the RE-InVEST project.*

October 2017

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**Please refer to this publication as follows:**

De Munck, J. & Lits, G., (2017). *From human capital to human capabilities. A broader normative foundation for the social investment perspective in Europe* (Re-InVEST Working Paper Series, D4.1). Louvain-la-Neuve: UCL/Leuven: HIVA-KU Leuven.

Information may be quoted provided the source is stated accurately and clearly.

This publication is also available via <http://www.re-invest.eu/>

This publication is part of the RE-InVEST project, this project has received funding from the European Union's Horizon 2020 research and innovation programme under Grant Agreement No 649447.

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# Introduction

The social investment perspective has recently been defined as a new perspective for social policies in Europe. In a communication (2013),<sup>1</sup> the European Commission urges the Member States to develop a social investment strategy defined as a third – new - ‘function’ that welfare systems have to fulfil to achieve their objective, the other functions being ‘social protection’ and ‘stabilisation of the economy’.

In this report, we will first briefly present how the main objectives of the ‘social investment’ perspective were elaborated, as a response to the shortcomings of neo-liberalism, by social policy experts in the beginning of the 21st century (1). Secondly, we will analyse the attempt made by the European Commission to translate this notion into European public policies (2). We will thirdly show that the European social investment strategy can be summarised by the principle that, as Leibetseder (Leibetseder, 2016) puts it: ‘social policy expenditure should be at least partially channelled towards investment into people’s capacities’. If the social investment perspective is to be the new paradigm for social policy in Europe, it cannot avoid a comprehensive discussion of what a ‘capacity’ is and in what ‘capacities’ European states should invest.

We will make the proposal that, if European countries aim at developing a normatively robust new model for social policy based on the SI perspective, it could be interesting to re-conceptualise what a capacity is, drawing from the capability approach (CA) to development proposed by Amartya Sen (3). As an important consequence, we propose a new understanding of *human rights as goals* of the economic and political integration of Europe (4). Finally, this will lead us to discuss the relationship that social policy instruments should entertain with the market. Against a market-driven-only approach to social investment, we will argue that a normatively robust perspective - based upon moral concerns for positive liberty rather than sheer negative freedoms and efficiency - needs an all-encompassing view on the kind of institutional arrangement to which social policy measures should be anchored (5).

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<sup>1</sup> COM(2013)83 Final, Towards Social Investment for Growth and Cohesion - including implementing the European Social Fund 2014-2020. Brussels: European Commission, 20 February 2013.



# 1. The Social Investment strategy in the expert discourse

The Social Investment (SI) strategy is the catchword of different expert works in the field of social policy. After the end of Keynesian policies in the seventies, the neoliberalism claimed to replace the publicly funded social protection by active labour market policies and privatisation of social insurance. This contradiction between Keynesian policy and neoliberal policy has been overcome by some experts via the idea of a SI policy.

## 1.1 The three bases of the SI programme

The SI perspective proposes a redefinition and a new justification of social policies based on three pillars: a new approach to growth, focused on human capital and innovation (1); a new theory of justice, based upon an idealised view of the active individual, different from the solidarist understanding of social policies in the post-war Welfare State (2); a transformation of the definition of ‘risk’ in post-industrial societies (3).

(1) A new theory of human capital and growth has been promoted in the 1960s. Since the Chicago School works, neoclassical economics embraced the concept of human capital. Human capital is the set of skills and capacities an individual can use in order to maximise her utility. On the micro-level, Becker tried to demonstrate the connection between the investment in learning and training and the level of future earnings. On the macro level, the connection has been established between the level of education and care and the level of future growth. This entails a revolution in the notion of investment. The investment (postponed consumption) is no longer conceived in narrow terms of *material* investment, but includes *human*, ‘software’ investment.

In this framework, unemployment is ‘linked to lack of adequate skills to fill today’s jobs and to create the jobs of tomorrow’ (Morel, Palier & Palme, 2012: 12). This explanation can be easily distinguished from the Keynesian explanation, which focuses on insufficient demand (cause of slow growth) and from the neoclassical explanation (labour market rigidities). If this is the case, social policies must ‘invest’ in learning and skills rather than distribute amounts for consumption or introduce flexibility in the labour market.

(2) The normative theory of justice is based upon the view of an *active individual* who wants to flourish with the help of social means and wants to be *included* in society. This concept of liberty is opposed to passive liberty. It means the possibilities to flourish in a way or another in all social domains. This normative vision of an active liberty entails a redefinition of the notion of equality. Equality in industrial societies was not universally shared. Even if they receive special help, children, women, disabled people are excluded from the labour market. Nevertheless the labour market is the only way to be included and to participate. The new concept of justice, as framed by Fraser, Dworkin, scholars in gender studies, makes the active participation of *all* the condition of a genuine equality in our societies. *Social inclusion* became the key expression of the new ideal of equality.

(3) The SI programme claims to be a suitable strategy to cope with the new post-industrial society. In the post-industrial society, the level of individual and collective social risks is higher than in the industrial society, as Beck (1986) and Giddens (1998) have argued. In order to survive and face these new social risks, individuals have to become flexible and adaptive. Social protections schemes have to change in order to assure the long-term employment and career stability that our societies no longer can assure. For instance, Vandenbroucke and Vlemincx (2011) make the distinction between ‘old social risks’ (old age pensions,

health care, cash benefits for the active people) and ‘new social risks’ (parental leave, eldercare, active labour market policies, general education). As opposed to the Keynesian State, the SI State should be oriented toward the future: the problem of the sustainability of the individual and collective development becomes more and more important in this framework.

These three discourses are interconnected in a very loose way. Generally speaking, we can say that each discourse sparks important debates.

- Inside the first discourse: What is really an investment? How to distinguish social investment and consumption? What is the measure of the ‘return’?
- Inside the second discourse: what is participation? What is flourishing? What do we mean by equality of ‘participation’? Is the labour-centred paradigm of inclusion the best way to realise participation of all?
- Inside the third discourse: do the ‘new risks’ erase the ‘old risks’? How can we provide resources to escape the market in order to develop education and care during the life? What is the connection between sustainable individual development and low carbon policies?

But even more difficult is the question of the epistemological coherence of these three fields of discussion. Obviously, any social policy programme must be relevant in all three fields. But the relevant options inside each of them can be incompatible with the two others. The evaluation of a SI programme must meet the challenge of this coherence. This is, as we will see later, one of our reasons to defend a Capability Approach to social investment.

## 1.2 The Capability Approach and the expert debate

Is the Capability Approach really a participant in the academic debate on social investment? It is true that Sen’s approach is often quoted as a vague reference in this framework (for instance Nicole-Drancourt, 2015). Obviously, his work participates in the development of a new participative understanding of equality and a redefinition of the link between individual freedom and justice. Nevertheless, Sen’s perspective is quite inconsistent with Becker’s theory. His work leads to a fierce critique not of human capital as such, but of the reduction of capabilities to human capital. The concept of responsibility in Sen’s work is quite different from the concept of Anthony Giddens. The centrality of work as a way of inclusion has, as far as we know, never been defended in Sen’s thought, even if work is obviously one way to develop the capabilities. If we want to introduce the Capability Approach in the field of social investment, we should select in economics a theory of development and in sociology a description/explanation of new post-industrial risks compatible with the basic insights of this approach.

We might even wonder if, in the academic debate on social investment, the second discourse - theories of justice (CA or not) - has been as important as some authors claim. The two other discourses (on economic growth and new social risks) have been much more important, without dealing with normative questions very seriously. Actually, the underdevelopment of the normative foundation of the SI perspective appears to be a rising concern in the literature. Criticising the ‘narrow economic’ framing of the SI perspective, Nolan (2013) strongly calls upon a more normatively grounded debate about the evolution of social spending. As he put it:

*‘(...) framing the debate in terms of a narrow economic argument runs the risk of obscuring normative choices and the broader case for social spending. This discussion is intended to contribute to clarification and debate about the notion of social investment and the most useful way to employ it, at a time of economic crisis when austerity and retrenchment threaten social spending and yet the need for it is more evident than ever.’ (Nolan 2013: 467)*

Morel and Palme (2016) make the same observation and suggest that the mobilisation of the CA could be very valuable when defining the moral and normative foundation of the social investment perspective. This is a good *academic* reason to reopen the discussion. We will show, in the following point, that this conclusion is even truer when looking at the translation of some scientific insights into European policies.

## 2. The European public policy translation of the social investment strategy

As Nicole-Drancourt (2015: 173) demonstrated, the SI perspective has not only been a research topic in the universities, it also emerged as a part of a new framing which impregnated public discussions about the development of our society.<sup>2</sup> Nicole-Drancourt dates the introduction of this perspective in policy discussion all the way back to the UN Rio de Janeiro Earth Summit of 1992 where the idea of sustainable development was popularised. Closer to us, the discussion between social policies experts were clearly received by the European Commission looking for new models of social policy.

### 2.1 The European SI strategy

We must surely make the distinction, as Nolan (2013) and Leibetseder (2016) urge us to do, between the *academic* debate on social investment and the *political* advocacy of this programme, even if sometimes experts are very committed in the public forum. But inside the political use, we can make the difference between mere advocacy and public policy documents. As a political authority, the Commission decided in 2013 to turn the SI package into an official paradigm. This is more than debates and arguments. This is a selective translation of discourses into a policy with its constraints and opportunities, addressed to public audiences and authorities at a very high level. This translation was, at the same time, a redefinition of the SI strategy according to the political context and the policy competences of the Union.

Published in 2010, the EU 2020 strategy was intended to revise and complete the Lisbon strategy (Lundvall & Lorenz, 2012: 333-351). The Lisbon strategy was criticised for three failures: (1) a failure of *coherence*: too many objectives were pursued at the same time; (2) a failure of *procedure*: a naive understanding of so-called ‘benchmarking’ of best practices in Europe; (3) a failure of *efficiency*: the European economy remains weaker than the American economy. In order to address these problems, the EU2020 strategy intends (1) to focus on the economic growth rather than the social cohesion, even if social cohesion is the second objective of the strategy; (2) to leave aside the open coordination mechanism and promote the creation of a different market-oriented basis of information; (3) to redefine the measure of efficiency according to neo-classical tools of economic success. The Social Investment Strategy was designed in the context of the liberal orientation of the Commission under Barroso.

The result of this ‘translation’ of non-liberal-contents into a liberal context has been, as suggested by Leibetseder (2016), a kind of ‘practical compromise’: ‘The inherent ambivalence hinders any assessment of these policies as neo-liberal, but they cannot be categorised as in opposition to it either’. The undecided academic discussion about the coherence of the three dimensions has been overcome by a neoliberal mainstreaming.

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2 Chantal Nicole-Drancourt considers the SI perspective as a ‘new social imaginary’. It is surely true that a new imaginary in social policy has emerged in the late 1990s in Europe. Nevertheless, we believe it is misleading to label this new imaginary ‘Social Investment perspective’ because the SI programme is only a part of it. There are other, very conflicting, approaches inside this imaginary: the Capability Approach, the Transitional labour markets approach, ecological economics, etc. It seems better to avoid the metonymic use of SI in order to define a new ‘imaginary’.

We have analysed in another paper, with qualitative discourse analysis tools, the content of European documents on Social Investment<sup>3</sup>. We can just give here a sample of this analysis. In the *COM(2013)83 Final*, we find the following quasi-definition of what social investment is:

*'Social investment involves strengthening people's current and future capacities. In other words, as well as having immediate effects, social policies also have lasting impacts by offering economic and social returns over time, notably in terms of employment prospects or labour incomes. In particular, social investment helps to 'prepare' people to confront life's risks, rather than simply 'repairing' the consequences. Modernisation of social policies requires systematic introduction of ex-ante result orientation in financing decisions and a systematic approach of the role social policies play in the different stages in life: from education via work/unemployment to sickness and old-age.'* (COM(2013)83: p3)

In this short quotation, we can identify four main characteristics that social investment policies should have for the EC:

- The first aim of SI is to strengthen people's current and future capacities.
- SI should have a lasting impact and returns over time. They require ex-ante result orientation. They have to strengthen future capacities of the people. In other terms: SI policies are policies directed toward the future or at least for which consequences – 'return' – are expected in the future and will or could be measured in the future.
- In consequence, SI policies are risk-oriented policies: they should 'prepare people to confront life's risks', they are based on prevision of what could be the future (the future of individuals belonging to 'at risk' groups that could be hit by a social risk, the future of the structure of the society, and the future social problems society will face).
- SI 'returns' should be measured in terms of 'employment prospects or labour incomes'.

If we examine the first characteristic, we can understand the meaning of what a capacity is for the EC. The following excerpt of the Communication gives us a precise indication:

*'Faced with structural long-term challenges, Member States need to adapt to ensure the adequacy and sustainability of their social systems and their contribution to stabilising the economy. If a person can temporarily not find work, the focus should be on improving their capabilities with a view to them returning to the labour market. This needs to be done through a targeted approach focused on the individual needs and delivered in the most cost-effective way.'* (COM (2013)83: 8)

We see here, and this is a pattern that we can find in several parts of the 2013 Communication, that most often the idea of strengthening capacities (or here capabilities) is connected to capacities that allow individuals to participate to the 'labour market'. They are labour market oriented capacities.

This connectedness can also be asserted if we look at the indicators mainly used in the document to evaluate the 'challenges' that a European SI perspective should allow to tackle (second paragraph of the Communication). For instance, one of these challenges is the 'gender dimension' i.e.: 'The particular challenges posed by continued gender disadvantage' (European Commission 2013: 7). If the Communication recognises that the problem is that 'overall 12 million more women than men in the EU are living in poverty', the assessment of this disadvantage mobilises only labour market indicators such as activity rate, part time working rate, or the gender pay gap. The mobilisation of these indicators leading to the conclusion that:

*'As gender inequality runs through an individual's entire life and its negative effects cumulate over time, this results in for instance lower GDP, lower social security contributions and higher poverty among older women, with 18% of women of 65 years and over being at risk of poverty, compared with 13% of men.'* (European Commission 2013: 8).

We see clearly here that the social problems that SI should allow to tackle (e.g. gender inequality in the EU or the higher risk of poverty for women) intermingle poverty risk descriptions with labour market indicators

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3 In the WP4 of the RE-InVEST project, analyses of the discursive contents of the Social Investment Package have been implemented by Grégoire Lits and Jean-Michel Bonvin & Francesco Laruffa. See their papers in Deliverable 4.2.

(it is very evocative here that the first invoked consequences of gender inequality are: a lower GDP and lower social security contributions).

This intermingling of targeting population at risk of poverty and labour market way of assessing social problems can also be captured in the apparent equivalence made by the EC between investing in people capacity and the ‘need to invest in human capital throughout life and ensure adequate livelihoods’ (European Commission 2013: 6). For the EC SI are mainly investments in human capital. Investing in human capital is deemed important as: ‘Future economic growth and competitiveness require investing in human capital, which lays the foundation for productivity and innovation’ (European Commission 2013: 2).

The meanings associated with the word ‘capacities’ in the EC proposal are connected to the ability to participate to the labour market. Social investments are primarily investments in human capital which are seen important to foster the growth and the competitiveness of the European economy. As stated in the Communication of 2013: “This is [the SIP] in line with the AGS<sup>4</sup> encouragement towards Member States to ‘invest in job-rich and inclusive growth” (European Commission 2013: 3). The main normative justification for the modernisation of social policies in Europe is the need to create future economic growth and competitiveness. The individual capacities that SI policies should invest in are in consequence capacities that will enhance the productivity of the (future) European citizens/workers and foster their ability to participate to the labour market.

## 2.2 The debate on the SI programme

This social policy programme sparks a very important debate. In this debate, we face a permanent confusion: is the ‘labour-market translation’ of the SI perspective only the effect of the political implementation in the political context of the Commission, or is it more deeply the result of some hidden normative orientations already (in)active in the academic debate?

In order to tackle these problems, we should take seriously all the critiques of the SI programme. A comprehensive analysis of the Social Investment scientific literature has been provided by Wiktorska-Świecka et al. (2016). This is surely the project of the ongoing work within the RE-InVEST project.

We must take into account that the social and political sciences literature on the Social investment perspective has been impregnated by one critique: the social investment perspective as firstly defined by Giddens (1998) too strongly focuses on ‘active’ labour market policies and on investments that aim (only) at building a better and stronger labour market, leaving other important social issues, such as fighting inequalities or organising a society of care, unaddressed. The main rationalities underpinning social investment strategies would be to create social cohesion through work, emphasising investments in social capital and enhancing individual responsibility. It means that the ‘public policy translation’ is not the only factor of ambivalence in the SI perspective. The normative question must be dealt with even in another political climate.

According to these critiques, the social investment perspective, by its shortcomings [focusing too strongly, or exclusively, on jobs creation], ‘may hamper social progress for all’ (Cantillon & Van Lancker, 2013: 553). These authors highlight the facts that 1/ social inclusion through work cannot tackle the problem of dependent people and the care they need, 2/ the notion of individual responsibility entails the danger of reinforcing existing inequalities, and 3/ human capital investment will only benefit those who are already advantaged (critique known as the ‘Matthew effect’).

In the same line, Van Kersbergen and Hemerijk (2012) focus on the question whether the SI perspective ‘has been established at the expense of social policies that mitigate poverty and inequality’. For them the goal of the SI perspective is: ‘ensuring that the returns to social expenditures are maximised, in form of active employment and social participation - especially in the labour market - social cohesion and stability’ (Van Kersbergen & Hemerijk, 2012: 476) and thus SI are not effective tools to mitigate inequalities and reduce poverty. In a nutshell, recent debates concentrate on the question whether the SI perspective does

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4 Annual Growth Survey.

focus enough on the problem of reducing inequality. In the same line, but more precisely, other scholars have pointed out the fact that the SI perspective main frameworks also fail to tackle the question of gender inequality (Jenson, 2009; Nicole-Drancourt, 2015; Saraceno, 2015).

Investing in people's capacities will enhance the quality of the human capital necessitated to sustain the development of the society in the knowledge-based economy that characterises our current productive system (Morel, Palier & Palme, 2012: 1). In line with the critique made by Saraceno (Saraceno, 2015) about the social investment perspective in general, we can argue that the EC proposal too strongly conceives human development as oriented toward the production of autonomous productive individuals able to participate to the labour market. Following different claims made by Morel, Palier and Palme (2012) or Vandenbroucke and Vleminckx (2011) we will argue that if the concept of social investment is to be at the core of the modernisation of European social policies, this labour market orientation is not sufficient to promote a more sustainable European development. As stated by Leibetseder:

*'Social investment could have the potential to reconstruct people, the state and society, in which human beings are not perceived as intrinsically valuable, but are judged on their rate of return.'* (Leibetseder 2016: 16).

Against this view, following Morel and Palme (2016), we will argue that a richer conception could be developed by mobilising the 'capability approach (CA) to human development' proposed by Amartya Sen. This normative foundation would take as a departure point the fact that economic development should not be the goal of human development, but rather considered as a mean toward the achievement of other greater values.

This mobilisation of Sen's work will allow us to discuss three important aspects of the social investment perspective as developed in the European Social Investment Package (SIP) of 2013 and more generally by social policy scholars. We will first discuss, as social investments are primarily investments in human capacities, how capacities should be defined and evaluated. This will lead us to distinguish between a human capital based and a human capability based investment strategy and to connect the debate about SI with the question of the centrality of human rights as a goal for social policies. Secondly we will argue that (labour) market oriented indicators are not suitable to assess the value or the 'return' that social investments can yield. This discussion will allow us to question the validity of a market-driven social investment strategy. We will finally address the question of how a human-capability based social investment perspective could better address the problem of inequalities than the human-capital perspective proposed by the EC. This last discussion seems particularly important as several scholars have highlighted the deficit of the European social investment perspective in this regard (Cantillon, 2011).

### 3. From a Human Capital to a Human Capability Investment Strategy

At the core of Amartya Sen's work is a redefinition of what the development of a society is. Rather than focusing only on GDP growth, or other economic measurement of welfare, the development process of a society should be seen 'as a process of expanding the real freedom that people enjoy' (Sen, 1999: 3). The measurement of the development process should not only be done according to economic stability or to the per capita GDP growth, but, rather, according to the enhancement of the *substantive freedom* of individuals. Substantive freedom depends on 'other determinants, such as social and economic arrangements (for example, facilities for education and health care) as well as political and civil rights (for example the liberty to participate in public discussion and scrutiny)' (Sen, 1999: 3). In other words, as Atkinson put it, Sen's main critique against traditional welfare policies is that: 'its informational base is insufficiently rich: the same distributions of individual welfares may coexist with very different scores on other dimensions that are important to social evaluation' (Atkinson, 1998: 177).

If economic growth cannot be considered as the primary goal, how can we evaluate the outcomes of social policies directed toward the enhancement of human freedom? By evaluating the different 'functionings' that people can achieve in their life. 'A functioning is an achievement of a person: what he or she manages to do or to be, and any such functioning reflects, as it were, a part of the state of that person.' (Sen, 2003a: 44). The capability of a person is derived from this notion of functioning: 'It reflects the various combinations of functionings (doings and beings) he or she can achieve' (Sen, 2003a: 44). In consequence, the valuational process on which the designing process of social policies relies should be based on the evaluation of the functionings that an individual can achieve in a society:

*'If life is seen as a set of "doings and beings" that are valuable, the exercise of assessing the quality of life takes the form of evaluating these functionings and the capability to function. This valuational exercise cannot be done by focusing simply on commodities or incomes that help those doings and beings, as in commodity-based accounting of the quality of life (involving a confusion of means and ends).'*' (Sen, 2003: 44)

This conception of what human development is disagrees with a standardised utilitarian view of what welfare is, as it is mainly the case with the EC proposal. Sen's approach strongly disagrees with the evaluation of welfare choice in terms of utilitarian values or economic assessment only.

This has a consequence on how a 'human capacity' is conceived. As we will see in the following excerpt, the conception of development as freedom relies on a broad definition of what a capacity is. This richer conception of what a capacity is should be used as the basis for a richer and more normatively grounded perspective on social investment.

*'I must also briefly discuss another relation which invites a comment, to wit, the relation between the literature on 'human capital' and the focus in this work on 'human capability' as an expression of freedom. In contemporary economic analysis the emphasis has, to a considerable extent, shifted from seeing capital accumulation in primarily physical terms to viewing it as a process in which the productive quality of human beings is integrally involved. For example, through education, learning, and skill formation, people can become much more productive over time, and this contributes greatly to the process of economic expansion. In recent studies on economic growth (...), there is a much greater emphasis on 'human capital' than used to be the case not long ago.*

*How does this shift relate to the view of development - development as freedom - presented in this book? More particularly, what, we may ask, is the connection between “human capital” orientation and the emphasis on “human capability” with which this study has been much concerned? Both seem to place humanity at the centre of attention, but do they have differences as well as some congruence? At the risk of oversimplification, it can be said that the literature on human capital tends to concentrate on the agency of human beings in augmenting production possibilities. The perspective of human capability focuses, on the other hand, on the ability - the substantive freedom - of people to lead the lives they have reason to value and to enhance the real choice they have. The two perspectives cannot but be related, since both are concerned with the role of human beings, and in particular with the actual abilities that they achieve and acquire. But yardstick of assessment concentrates on different achievements.’ (Sen, 1999: 292-293).*

Following this perspective, social investments should not only aim at integrating people in the labour market (or augmenting their production possibilities), but rather focus on enhancing the ‘substantive freedom’ – the ability for every individual to ‘lead the lives they have reason to value and to enhance the real choice they have’. Sen’s argument is that ‘the loss of freedom in the absence of employment choice’ (Sen, 1999: 113) is of fundamental importance, but is not the only concern, the only functioning, that social policies should focus on. In this perspective, enhancing people’s productive capacities is important but should not be the ultimate goal of social policies. This does not mean that the ‘human capital’ approach and the ‘capability’ approach are antonymic. Conversely, Sen sees them as ‘closely related but distinct’ (294). The way they are connected could be seen in the following example:

*‘Consider an example. If education makes a person more efficient in commodity production, then this is clearly an enhancement of human capital. This can add to the value of production in the economy and also to the income of the person who has been educated. But even with the same level of income, a person may benefit from education – in reading, communicating, arguing, in being able to choose in a more informed way, in being taken more seriously by others and so on. The benefit of education, thus, exceeds its role as human capital in commodity production. The broader human-capability perspective would note - and value - these additional roles as well.’ (Sen, 1999: 294)*

This example is of particular interest in the debate about social investment as it precisely discusses the normative added value of an investment in education. The main difference between the two approaches lies thus in the valuational process on which the design process of social policies should be done but also in the value on the basis of which the outcomes of these policies should be assessed.

## 4. Social Investment and Human Rights

This leads us to ask a question: how can we connect the social investment strategy with the discourse on human rights, which is a very important valuational basis for public action in the European Union today? To answer this question, we must face a dilemma. If we follow the reduction of capacities to labour-market oriented human capital, it seems difficult to avoid a utilitarian understanding of human rights: human rights are not good in themselves, they are only good in order to promote growth. But this utilitarian reduction of human rights seems quite contradictory with a common sense (and even judicial, court-oriented) understanding of human rights: human rights are deontological goals. They must be implemented regardless of their economic cost. The European Union must solve this contradiction if it wants to defend its claims of promoting a ‘human rights’ policy. Without this solution, the charge of mere ‘rhetoric’ of human rights is impossible to address.

Sen’s understanding of human rights (2005) can be helpful to go beyond this dilemma. He constructed his ‘goal rights system’ in order to escape two unsatisfactory treatments of human rights. The first of these transforms human rights into sacred norms that must be enforced absolutely, creating external constraints that weigh on the actions of individuals. The content of these norms varies depending on their authors. For some (Hayek, Nozick), these human rights are purely negative: they can ultimately be summed up as the absence of obstruction by others or by the state. Other authors expand the content of these principles but do not abandon their deontological aspect. This is the case with Rawls, who includes positive liberties in his principles of justice. In Dworkin’s texts too, rights are much more inclusive in substance, but they continue to weigh externally on the action of individuals, being hermeneutically founded in the discourse of shared legal interpretations.

The problem with this deontological definition lies in its indifference to the consequences of the implementation of these ‘absolute’ rights. The authors mentioned above argue for a procedural version of rights unconcerned with the real states produced by the processes of their operation. But such states *matter* in an evaluation of justice. To take just one example, it is possible for the application of property rights to generate massively inequitable situations that pervert the application of all justice procedures. This is why it is extremely difficult to defend a purely Nozickian version of freedom or to support, as does Dworkin, that judgment concerning rights must not take its political effects into consideration. ‘Taking rights seriously’ is not simply a question of recognising their inherent value – it is also a matter of considering the consequences of these rights in social situations that are deeply affected by the interdependence of actors. We recognise in this argument, advanced by Sen, one of the reasons to be wary of sheer normative discourse on human rights.

It is important, however, not to overcompensate and topple into a consequentialism that holds human rights to be devoid of intrinsic value. In economics, utilitarianism developed this kind of approach; while it admits that human rights can benefit well-being and growth, and it defends political freedom, the freedom of expression and movement, and property rights, its ultimate aims are not the rights themselves but rather the establishment of efficient markets and the maximisation of growth rates. These goals are evaluated by utility maximisation standards, which typically take the form of monetary units.

To avoid both deontologism and consequentialism, Sen proposes a system of ‘goal rights’ that recognises the two-fold value of human rights. First, they are acknowledged as having intrinsic value: human rights express fundamental aspects of freedom in the sense of ‘the freedom to choose and to effectively lead the life that one has reasons to prefer’. They constitute, therefore, goals of human association. Second, human rights also have an instrumental value insofar as their application engenders consequences that could benefit

freedom. In this case, however, their operationalisation takes place through a complex set of social processes, and the results are not guaranteed. Only an empirical and contextualised investigation can disentangle the complexities and measure the impact of human rights - legally ratified or not - from the perspective of freedom.

This conceptualisation consequently appeals to 'reasonable' reason rather than to 'rational' reason. It is necessary to seek out a balance between values and results. As Jeremy Waldron (1993: 221) says, 'what is wrong with utilitarianism is not that it contemplates trade-offs but that it combines the idea of trade-offs with a doctrine of the quantitative commensurability of all values'. The evaluation of capabilities based on human rights as goals escapes the utilitarian trap.

This balanced understanding of human rights as main set of values can generate new tools of evaluation of social policies in Europe. Everybody knows the debate on the limits and shortcomings of the GDP indicators. We could wait from the European Commission committed to a connection between SI and HR a new range of indicators of success or failure of social policies. This cognitive approach to social policies could be very progressive and avoid the contradiction, embedded in national economic policies, between social protection schemes and standardised measures of economic growth.

## 5. Capability-based social investments and the market

After having discussed the nature of the ‘capacities’ European states should invest in and the set of values (the HR framework) that could be used to evaluate what capacities are worth investing in, we can interrogate the institutional arrangement needed for implementing a social investment strategy aiming at developing the real freedom of all European citizens.

This question is important because, as Sen put it, ‘individuals live and operate in a world of institutions. Our opportunities and prospects depend crucially on what institutions exist and how they function. Not only do institutions contribute to our freedoms, their roles can be sensibly evaluated in the light of their contributions to our freedom. To see development as freedom provides a perspective in which institutional assessment can systematically occur’ (Sen, 1999: 142). Putting positive freedom and human rights at the core of the design of social policies urges us to interrogate the role of the main tools and organisations used to implement social policies.

Following the comprehensive analysis of the SIP made by Leibetseder (Leibetseder 2016), we can assert that marketisation is a clear orientation of the different measures proposed in the EC social investment strategies. Market seems to be the key institution of the European social investment strategies. Leibetseder sums up the way in which the SIP proposal is mainly market-oriented:

*‘Conversely, benefits that uphold redistribution are recommended to be targeted and stressed to work first; therefore, SIP is strongly privatising and commodifying. While few market mechanisms are introduced on the micro level, administrations and member states are required to undergo a strict transformation under the new public management policies, which may restrict democratic governance structures.’* (Leibetseder 2016: 15-16)

The SIP favours redistribution mechanisms that have positive consequence on the labour market, reinforcing privatisation and commodification of different goods and services (such as health care or training).

### 5.1 The inability of markets to evaluate and pursue opportunity-freedom

Sen’s definition of a market is very encompassing. It is ‘a basic arrangement through which people can interact with each other and undertake mutually advantageous activities’ (Sen, 1999: 142). A human-capability based social investment strategy will have a balanced attitude toward market-driven instruments. The setting up of a human capability approach to social investment should acknowledge the complementarity that exists between market and non-market instruments in the design of social policy. The ‘many-sided approach to development’ (Sen, 1999: 126) that Sen calls upon argues in favour of the ‘need for balancing the role of the government - and other political and social institutions - with the functioning of markets’ (ibid.). In other words: ‘Combining extensive use of markets with the development of social opportunities must be seen as a part of a still broader comprehensive approach that also emphasises freedoms of other kinds (democratic rights, security guarantees, opportunities of cooperation and so on).’ (127). According to this perspective, market-driven instruments are not seen as having negative outcomes *per se*, the main problem is that: ‘the successes and failures of competitive markets are judged entirely by achievements of individual welfare (for example, in terms of utility-based Pareto optimality), rather than by accomplishments in promoting individual freedom.’ (Sen, 2003b: 501-502). The problem lies in the utilitarian - ‘welfarist’ - informational basis according to which market-driven collective choices are mainly justified and assessed.

When discussing the role the market can play in developing people's capabilities, Sen distinguishes three facets of freedom that have to be developed:

1. opportunity to achieve;
2. autonomy of decisions;
3. immunity from encroachment (Sen, 2003b: 510).

Free individuals should be able to make their own decisions, their autonomy of choice should be guaranteed against the invasion of 'interpersonal interference', and individuals should be able to express their preferences (defined as 'choice based on value' Sen, 2003b: 515) between a set of desirable opportunities (and in consequence individuals should have real desirable opportunities).

Markets are very good at safeguarding and providing autonomy of decision and immunity from encroachment, but are not clearly efficient with regard to the criteria of 'opportunity to achieve'. As said by Sen: 'in fact market mechanism has a role in protecting 'autonomy of decision' as well as 'immunity from encroachment' (...). Thus decisional autonomy as well as encroachment immunity are constitutive of the competitive market mechanism without externalities' (Sen, 2003b: 512). When building a capability-based social investment strategy, it is in consequence important to create an institutional arrangement that can also be efficient in terms of 'opportunity-freedom'. This institutional arrangement should aim at developing the set of opportunities available to every distinctive individual according to their possible varying ability to transform commodities, or resources, into functionings.

This concern is important as, at the core of the capability-based perspective there is the idea that: 'if we really do attach importance to the actual opportunity that each person has, subject to feasibility, to lead the life that he or she would choose, the opportunity aspect of freedom must be quite central to social evaluation' (Sen, 2003b: 513). It leads Sen to raise two questions: (1) In terms of what criteria do we evaluate such a set of achievements of opportunities? and (2) In what 'space' are achievements considered, that is: achievement of what?

In current welfare social policies, the state of welfare of a society or a social group is evaluated mainly according to a utilitarian framework where the amount of commodities produced - or the growth of the economy - serves as a proxy for the evaluation of social welfare (Sen calls this perspective the 'welfarist' evaluative framework). Assessing the opportunity-freedom, or the opportunities that people can really achieve, cannot be based on such utilitarian informational basis as the ability to convert commodities or wealth into *functionings* is not equally distributed among individuals. Sen gives us an alternative answer:

*'opportunity-freedom cannot be sensibly judged merely in terms of possession of commodities, but must take note of the opportunity of doing things and achieving results one has reason to value. The freedom in question must include the freedom to live the way one would like, rather than judging freedom simply by commodity holdings.*

*The distinction can be very important in dealing with interpersonal comparisons. For example, two persons with identical commodity holdings may have very unequal freedoms to lead the lives they value, because one person may be disabled, or prone to disease, while the other is not similarly disadvantaged. A disabled person with the same commodity bundle may be just as rich as another, but still lacks the capability to move about freely and achieve other functionings that are affected by that disability. If freedom is judged by our capability to live the way we would choose, then the commodity space is the wrong space for evaluation of freedom. (...) Opportunity-freedom is more sensibly judged in terms of capability to achieve valued results than simply by commodity holdings.'* (Sen 2003b: 519)

According to the CA framework evaluation of welfare should move from what Sen calls the 'commodity space' to the 'capability space'. Evaluation should be evaluation of 'actual functionings and capabilities' (Sen, 2003b: 522). As there are interpersonal variations of the relationship between commodity holdings and the actual functionings and capabilities these commodities allow to achieve, comparison of opportunity-freedom should not be done in the space of commodities. The main reason of this shift is that 'this deficiency is particularly serious for the assessment of inequality and for a theory of justice' (Sen; 2003b: 523).

As a consequence, social policies should implement non-market institutional arrangements that would complement the market-oriented organisation when pursuing the goal of extending the opportunity-freedom. One concrete way of evaluating what capacities to invest in, when pursuing the goal of extending the opportunity-freedom, could be to target the ‘capability deprivation’.

*I have argued that capability deprivation is more important as a criterion of disadvantage than is the lowness of income, since income is only instrumentally important and its derivative value is contingent on many social and economic circumstances. That argument can now be supplemented by the suggestion that focusing on capability deprivation has some advantage in preventing incentive distortions compared with working with lowness of income as a criterion for transfer and subsidy.’ (Sen 1999: 131)*

Social policies results should be evaluated in terms of capability enhancement, i.e. in terms of real opportunities that people (who are unequal in terms of conversion possibilities) can have and real functionings (that is, beings and doings) they can achieve.

## 5.2 Education and health as public or semi-public goods

A second critique expressed by Sen is that ‘market mechanisms may sometimes be less effective [than other institutional arrangements to solve an economic problem], particularly in the presence of what are called ‘public goods’ (Sen, 1999: 128). The main reason for this is that:

*‘One of the assumptions standardly made to show the efficiency of the market mechanism is that every commodity - and more generally everything on which our welfare depends - can be bought and sold in the market (...). In fact however some of the most important contributors to human capability may be hard to sell exclusively to one person at a time. This is especially so when we consider the so-called public goods, which people consume together rather than separately.’ (Sen, 1999: 128).*

Examples of public goods given by Sen are a malaria-free environment, military defence, or environmental protection, which are ‘goods’ that cannot be bought by only one person. The last example he gives will be of special interest here as he considers that education and especially basic education and thus early childhood care (which are at the core of social investment strategies), are to be considered as public goods. Education can be bought by one person alone, but one person alone cannot benefit from living in a globally well-educated society, neither can one buy the fact that the rising general educational level will ‘enhance economic progress from which others too benefit’ (Sen, 1999: 129). This has an important consequence: ‘The effective reach of these services may require cooperative activities and provisioning by the state or local authorities’ (Ibid)

This second critique that Sen calls the ‘public goods’ argument, states that it is necessary to go beyond the market mechanism when doing social investments (or ‘social provisioning’ as Sen put it) that ‘arise from the need of basic capabilities, such as elementary health care and basic educational opportunities’ (Ibid). This argument points out that, in this case, going beyond the market is not only justified because it fosters equity in supporting public assistance, but also because of efficiency considerations (market could not be very efficient for creating a malaria-free environment or to enhance the global level of education in a region).

## 5.3 Externalities and complementary institutions

A third critique that we can draw from the CA framework is based on the understanding that the functioning of the market depends on other institutional, non-market, functionings.

The social investment strategy developed by the EC considers the relation between market and other institutions. The EC mainly sees the development of social investment as an opportunity for the for-profit private actors to reinforce their position and create new markets in domains that are generally handled by public actors or non-profit organisations, as it is very clear in the following paragraph:

*Resources for social policies are not limited to those from the public sector. A non-negligible part comes from people and families. In addition, non-profit organisations provide social services on a substantial scale. These range from homeless shelters, support for the elderly, people with disabilities, to advice centres on social benefits in general. Social enterprises can complement public sector efforts, and be pioneers in developing new markets, but they need more support than they are receiving now. The for-profit parts of the private sector would need to be further encouraged to use the potential of social investment through, for instance, a healthy and secure social and working environment. This is not limited to Corporate Social Responsibility alone and includes for example on the job training, in-house child care facilities, health promotion and accessible and family-friendly workplaces.*

*In the social area, Member States still make insufficient use of more innovative approaches to financing, including by using participation of the private sector and financial engineering through instruments such as micro-finance, policy based guarantees and Social Investment Bonds which should strive for budgetary savings.'*

(European Commission, 2013: 5-6).

Conversely, a CA centred social investment perspective should acknowledge that other institutional arrangements provide a plurality of rationalities and economic logics that would allow a more ethical and normatively grounded European social policy.

The family is obviously such an important alternative institution, and the State another one. If we follow Karl Polanyi, we can identify three main normative principles for economic transactions that these institutional arrangements allow to follow: the reciprocity principle (as in the family), the commodification principle (provided by the market) and the distribution principle (organised by associations and by the State). One of the problems of current understandings of the social investment strategy is the reduction of the economic exchange to the market exchange. Following this critique we can ask the following questions: what could be a social investment strategy implemented by the third sector? What could be a State investment strategy beyond the market paradigm? These questions should be taken seriously by the Commission in the coming years. They should also allow discussing the definitions of what 'social enterprises' and 'social innovations' are in a way to connect them with the recent debate on the role of the 'third sector' in social policy (see for example Moulaert, et al., 2013 and Laville, et al., 2016 for insightful analyses on this question).

## 6. Conclusion

In this paper, we have stressed the importance of the *Capability Approach* for the assessment of the Social Investment Strategy designed in 2013 as a European public policy orientation. We firstly investigated the relationship between the *academic debate* and the *public policy schemes*. For both dimensions, we asserted that the *Capability Approach* could be introduced as a critical stance against which the Social Investment Perspective could be evaluated.

Regarding the academic debate, the main concern lies in the inconsistency between the economic theory of development (including growth), the sociological theory of new social risks and *a theory of justice* enabling the construction of relevant normative and analytical landmarks. Regarding the public policy debate, the main issue, in order to open up a broader debate on the contribution of the European level to the extension (instead of destruction) of social freedoms in Member States, is to overcome the market emphasis in social policies. The capability approach can be, if well designed, a heuristic tool for progressive politics in our times.

We have made suggestions concerning two areas of the European policy: the human rights policies and the market policies. Our goal was to show that the *Capability Approach* can be used to reframe the meaning of these two important concepts of any European policy.

On the one hand, in the area of human rights, the *Capability Approach* can enhance a subtle, responsive and demanding concept of human rights. As demonstrated by Robert Salais,<sup>5</sup> this understanding of human rights goes beyond the reduction of the human rights concept one could deduce from the problematic phrasing of human rights in the European Charter.

On the other hand, we can follow the pragmatic relativisation of market policies promoted by the *Capability Approach*. Without denying the connection between freedoms and market, we can identify limits of the market in relation with the critical concepts of positive liberty: opportunity options cannot be commodified; common or public goods are relevant and beyond any market regulation; externalities and other exchange institutions must be taken into account in European policies.

Obviously, the heuristic power of the *Capability Approach* is not exhausted by these two points. Further work is needed in order to explore two other key concepts: the concept of investment and the concept of political participation.

On the one hand, the concept of ‘investment’ can be critically explored via the problems raised by the new legal framing of international investments in the international trade agreements. In 2016, the ILO published an interesting document on ‘The assessment of labour provisions in trade and investment agreements’,<sup>6</sup> showing the ‘politisation’ of such agreements in the area of global governance. We should see these very new developments as a relevant field of inquiry. The issue of the promotion of ‘positive freedom’ (beyond negative freedoms of exchange) at global scale is one of the most important issues of our time.

On the other hand, we should explore the problems of the new ‘participation’ schemes necessary to go beyond the neo-corporatist arrangements of the industrial society. In the *Capability Approach*, the public debate and the ‘capability for voice’ are very important concerns. Nevertheless, the institutional designs of such participation are quite difficult to define in the current situation, especially for working classes and poor people. How to allow NGOs and associations to be associated in social policy and economic forums?

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5 See his contribution to Deliverable 4.2.

6 [http://www.ilo.org/global/publications/books/WCMS\\_498944/lang-en/index.htm](http://www.ilo.org/global/publications/books/WCMS_498944/lang-en/index.htm)

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## RE-InVEST - Rebuilding an Inclusive, Value-based Europe of Solidarity and Trust through Social Investments

In 2013, as a response to rising inequalities, poverty and distrust in the EU, the Commission launched a major endeavour to rebalance economic and social policies with the Social Investment Package (SIP). RE-InVEST aims to strengthen the philosophical, institutional and empirical underpinnings of the SIP, based on social investment in human rights and capabilities. Our consortium is embedded in the 'Alliances to Fight Poverty'. We will actively involve European citizens severely affected by the crisis in the co-construction of a more powerful and effective social investment agenda with policy recommendations.

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