

The Theoretical Relevance of the Capabilities Approach in Discussing the Purpose of Education

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We must go beyond the notion of human capital, after acknowledging its relevance and reach. The broadening that is needed is additional and cumulative, rather than being an alternative to the “human capital” perspective (Sen, 1997: 1959; Robeyns, 2006: 69; Chattopadhyay, 2012: 150).

Abstract

This paper endeavours to use the Capabilities Approach (CA) to clarify the understanding of human dignity as the human right purpose of education and argue that access to education needs to be compulsory for all children in consonance with international human rights law (IHRL) and because of the significance of education in developing those capabilities needed to guarantee a life with dignity, which limits the discretion of states in accordance with the rules of IHRL. It argues that the CA is a relevant theoretical approach because it conceptualises valuable personal outcomes an individual could achieve through education i.e., the purpose education should achieve in the life of learners. This is an aspect that both IHRL scholars and the CA have not explored, i.e. investigating the purpose of education under IHRL and the insights and illuminations the propositions of the CA provide. As such, this paper contends that the CA emphasises human agency (what valuable things people can achieve) instead of markets and economic purposes. It endeavours to argue that the CA further accentuates the significance of access to schooling, which, in combination with the central function of human dignity in IHRL, allows the understanding of dignity as the fundamental purpose of education. This means that the CA contributes to a clearer and richer understanding of the use of human dignity in IHRL. It starts with the foundational work of Sen that is rooted in welfare economics, and more reliance is placed on Nussbaum’s philosophical work while discussing human dignity under the CA. This is because Nussbaum draws from moral and political philosophy in her version of the CA, which enhances our understanding of the theoretical conceptions of human dignity and its use under IHRL.

Keywords: Education, Capabilities Approach, Human Dignity, Human Rights, HCT

DOI: 10.7176/JEP/14-3-03

Publication date: January 31st 2023

Introduction

This paper argues that, whereas the Capabilities Approach (CA), particularly Nussbaum’s version, recognises the need for each individual to develop capabilities and freedoms to be able to lead a quality of life ‘worthy of human dignity’ (Nussbaum, 2011: 31-32), IHRL while recognising the inherent dignity in humans, requires education delivery to focus on the ability of everyone to lead a life with dignity as the human right purpose (this has been argued elsewhere by the author). Notably, the critique of human capital theory (HCT) by scholars like Amartya Sen in the 1980’s prompted the formulation of the human Capabilities Approach, which draws from welfare economics to consider what personal gains and advantages (well-being) people achieve using the resources and knowledge available to them instead of an exclusive focus on a state-centred economic purpose as proposed by HCT. The CA focuses on the purpose of education, and recognises the intrinsic values¹ of education ignored by economic approaches to education like HCT (Alkire, 2002: 4). The CA, according to Sen, is used to assess individual’s welfare and provide a theoretical basis for the evaluation of inequality, poverty and policy analysis (Kuklys, 2005: 9; Arends-Kuenning & Amim, 2001: 127). As Sen argues, capability is a

Person’s ability to do valuable acts or reach valuable states of being [. . .] it represents the alternative combinations of things a person is able to do or be - the various functioning he or she can achieve (Sen, 1993: 30; Walker & Unterhalter, 2007: 2).

Therefore, this paper draws from Sen’s CA that is based on welfare economics, because it restores focus on individuals as the recipients of education and what they could achieve with the cognitive resources they acquired, rather than HCT which is state-centric and wholly focuses on the achievement of an economic purpose. Hence, capability entails the freedom to promote or achieve valuable functioning and it is education that builds,

¹ The intrinsic value of education is the ability of people who have acquired education to see the acquisition of learning as something good, have self-contentment and happiness and be glad in what they have come to be.

develops and enhances these freedoms, underscoring the essence of access to schooling so as to realise the human right purpose of education having regard to the problems of access to schooling in the E-9 countries (Alkire, 2002: 6; Sen, 1992: 40).

The philosopher, Martha Nussbaum, who worked with Sen on many fronts, using the theoretical formulations of Sen as basis, developed a different version of the capabilities theory based on moral and political philosophy (Nussbaum, 2000; Nussbaum. 2011: 19). Nussbaum, from a philosophical perspective, which this paper considers necessary for the discussion of the purpose of education, contributed to the CA in a manner that considers the level of capabilities each individual acquired in the pursuit of a life 'worthy of human dignity'. Nussbaum's version of the CA, which incorporates human dignity, theoretically connects with the identification of human dignity as the human right purpose (argued elsewhere by the author), whereas Sen's CA connects HCT and the economic purpose it puts forward. Thus, this paper considers crucial the insights welfare economics (Sen's contribution) and philosophy (Nussbaum's contribution) brings to the fore in the discussion of the purposes of education (i.e. an human right purpose and an economic purpose). Scholarship discussions across humanities and social sciences on the CA in line with the formulations of Sen and Nussbaum have centred on the necessity of education for the development of capabilities, freedoms and opportunities, and for the promotion of functioning (Kjellberg and Jansson: 2020, 2).

The CA is necessary because, IHRL does not provide any substance in the discussion of the concept of human dignity as the human right purpose of education, which underscores the need to discuss other approaches, theories and propositions in education that will give more valuable and clearer insights on its purposes. For this reason, one of the contributions of this paper is to provide a better understanding of human dignity than is presented under IHRL using the conceptual framework of the CA. Overall, the CA is deemed relevant to the argument in this paper for five reasons. Firstly, Sen's version of the CA through welfare economics connects HCT, human development and demonstrates the relevance of the propositions of the CA in an education that focuses on the interest of individuals i.e. human development centred education instead of a state-centred learning. Secondly, Nussbaum's philosophical version of the CA recognises human dignity as a fundamental concept and, therefore, conceptualises the purpose education seeks to achieve in the life of each individual. Thirdly, the CA will assist in demonstrating the significance of education to each individual and the recognition of the connection between education and human dignity and how the non-recognition of human dignity as the purpose of education in Part II contributed to Nigeria's status as an E-9 member State. Fourthly, the CA recognises the personal significance of education in the pursuit of human dignity and it is helpful in understanding the limitations of IHRL (in its recognition of human dignity as a purpose) and HCT (in its focus on an economic purpose). Fifthly, the CA understands the basic significance of access to schooling, which is a common concern in all members of the E-9 countries and provides evaluative mechanisms to assess the enjoyment of the right to education and the purpose it has been designed to achieve.

Having the above in mind, the CA will critically increase our knowledge on the 'why' i.e. the *raison d'être* of the right to education and provide a better understanding of the central significance of human dignity as a purpose of education than IHRL. In particular, this paper endeavours to discuss the relationship between the CA and the requirements of IHRL showing their mutual connections, and the theoretical relevance of the CA in realising/making sense of human dignity as the human right purpose. It demonstrates that, in discussing the purpose of education, the CA is a broader approach to education than the purely economic purpose the HCT seeks to achieve. For insights into the relevance of the CA in terms of overall purpose of education, this paper is divided into three sections. The first draws from the work of Sen to argue that the CA is broader in approach than the propositions of HCT for recognising the intrinsic values of education. The second section draws from the work of both Sen and Nussbaum to discuss the theoretical overlap between the requirements of IHRL in education and the CA and argues that, having regard to challenges of access to schooling in Nigeria under Part II, the CA recognises the central role of education in the development of capabilities that determines people's quality of life and as such should override States' discretion. Thus, the CA supports the need for education to focus on individual interests instead of state-centred interests. The last section draws from Nussbaum's version, based on moral and political philosophy, to argue that the CA provides a better understanding of the significance of human dignity and the centrality of education in stimulating the pursuit of a life 'worthy of human dignity', having regard to the arguments in Part II.

The Capabilities Approach Conceptualises the Intrinsic Value of Education

Amartya Sen's theoretical approach to education is arguably useful not only in the overall discussions 'of policy and critiques of theories regarding education and the economy' (Unterhalter, Vaughan, Walker, 2007: 1), but also in discussions of the personal purpose education should achieve in the life of each individual. From the lens of welfare economics, Sen intended to use the CA to assess peoples' quality of life, what they are able to do and to be, what freedoms, opportunities, and choices are at their disposal, and individuals' abilities to achieve valued outcomes (Berges, 2007: 16). In conceptualising 'development as freedom', Sen argues that people, and every

individual, need certain substantive freedoms, capabilities, and opportunities for a valued functioning – living a valued life (Sen, 1999; Lozano et al, 2012: 133). His starting point is a critique of using the income and resource-based approaches in determining individuals' quality of life. In particular, Sen criticises HCT for focusing principally on peoples' agency for economic emancipation (Sen, 1999; 294). Instead, he proposes the CA that primarily considers what the individual can be and do with the income and resources available, and not the quantity of resources or income the individual has.

As argued elsewhere by the author, HCT has been criticised for adopting a narrow and instrumental approach, and in so doing, ignores the need to bridge the gap between using learning (in the form of skills and knowledge) as a means to achieve an economic purpose on the one hand, and the realisation of human dignity as the human right purpose of education as clearly set out in IHRL on the other. This section argues that the CA adopts a broader perspective and can complement the theoretical lacuna of HCT because, HCT merely conceptualises education through the lens of economics and requires a focus on vocational education that concentrates on certain subjects (i.e. Sciences, Technology, Engineering and Mathematics) in order to guarantee the realisation of an economic purpose. However, the CA conceptualises both the instrumental and intrinsic values of education i.e. it recognises the intrinsic value of education overlooked by HCT (Manion & Menashy, 2013: 218). The Intrinsic value of education allows people to see education as something good and have happiness and self-contentment through their acquisition of learning and knowledge. Thus, the CA is not restricted to what education can do for the state (economic purpose). Instead, it focuses on how individuals can use education to promote the freedoms they enjoy and lead a life worthy of human dignity and may therefore usefully clarify the understanding of the human right purpose of education and how it could be achieved in practice (Chattopadhyay, 2012: 119-120). The basic theoretical orientation of the CA is that each individual should have the freedom to choose the life he/she values or has reason to value (Buzzelli, 2015: 207). This is where the neoclassical economic propositions of HCT have arguably failed because HCT assume that everyone is prepared as human capital for the labour sector to promote high productivity, which contradicts the basic philosophical ideals of human dignity that maintains that people should not just be used as a means for the achievement of designated ends, in this case, an economic purpose. Therefore, Sen tried to 'restore the humanistic view of education' instead of the extremely economic outlook orchestrated by HCT that merely conceptualises education's ability to catalyse state economic development (an economic purpose) (Chattopadhyay, 2012: 149).

The CA recognises the centrality of individuals in being instrumental to state economic development, but in addition, recognises the ability of people to use freedoms and real opportunities at their disposal to achieve personal well-being and a good quality of life. According to Buzzelli, the CA is more interested in the freedoms people have to exercise agency that will expand their capabilities which, in turn, leads to greater agency (Buzzelli, 2015: 208). Sen formulated the CA to be an inclusive and broader approach to human development than HCT in terms of scope, but not as an alternative to the narrow scope of HCT (Buzzelli, 2015: 208).

Two important points are discussed here. Firstly, the CA recognises the contribution of HCT, particularly in the area of economic development through an economic purpose, but incorporates the propositions of HCT into a larger conceptualisation of education (Buzzelli, 2015: 208). Secondly, in so doing, the CA provides 'a broader and richer description of children's agency and critical thinking abilities, which has implications for assessment practices' (Buzzelli, 2015: 208).

Capabilities Approach and IHRL: The Theoretical Relationship

This section relies on the work of Sen and Nussbaum on the CA to discuss the theoretical relationship between the requirements of IHRL and conceptual propositions of the CA. Under IHRL, in recognition of the inherent dignity of all humans, the foundations for the right to education started with the 1948 Universal Declaration of Human Rights (UDHR); later in 1966 the International Covenant on Economic, Social and Cultural Rights (ICESCR) was adopted. As a result, education is meant to provide everyone the opportunity to acquire cognitive resources and stimulate the pursuit of human dignity. Similarly, the CA, particularly as conceptualised by Martha Nussbaum, identifies the need for people to develop and expand their capabilities in a manner that guarantees their abilities to lead lives 'worthy of human dignity' (Nussbaum, 2011: 31-32). The CA conceptualises each individual as an end in themselves and what he/she can achieve with the expanded capabilities for valued outcomes. Thus, both IHRL and the CA theoretically recognise the need for each individual to acquire capabilities that form a springboard for the achievement of human dignity. As such, this underscores the theoretical relationship between IHRL and the theoretical propositions of the CA, since both promote the need for people to be fully developed so as to be able to enjoy other benefits of education. In what follows, this section examines the central role of education in determining the enjoyment of other human rights and the ability to achieve human dignity, the justification of children's education and the human right purpose of education as theoretically conceptualised by IHRL and the CA.

Education is Central to Holistic Human Development

This subsection argues that the purpose of education is to perform a central role in the life of everyone and their ability to develop capabilities that are necessary to achieve human dignity and a flourishing life. As a result, it argues for an increased access to schooling because of its significance. This is particularly significant in relation to children as their lack of the capability to be educated is a fundamental failure that disturbs them even in later adult life and exposes them to harm and disadvantage. Accordingly, from the lens of the CA, to be educated is a fundamental capability, which is as important as the capability for sustenance (food), the capability to live in a home (shelter), and the capability not to be walking about naked (clothing). As such, it makes access to education, i.e. compulsory education, a basic need that has a central role in everyone's life and portrays the huge disadvantage people with lack of access to schooling in E-9 countries are exposed to. These capabilities reflect the humanity and the sense of dignity of the human person and when these capabilities are not developed through education, individuals' quality of life and their ability to achieve human dignity are adversely affected. This brings to the fore the need to consider the nature of the social arrangements in the education sector to ascertain if they are inhibiting the development of capabilities and freedoms.

Sen calls education a 'social opportunity' which people are entitled to, and the ability of people to have access to such social entitlements is determined by the social arrangements in place in society generally, which is at the foundation of social justice (Sen, 1999: 10). Here, Sen uses the word 'entitlement' in the form of a right. As such, he recognises access to education as a right of everyone because it is a condition precedent for the development of capabilities and freedoms for a life of well-being (achievement of human dignity). In practical terms, as argued in Part II, education as a human right (an entitlement) requires designing learning curriculum in a manner that focuses on the holistic development of each individual. Therefore, both the CA and IHRL recognise that education plays a central role in promoting a life 'worthy of human dignity', particularly because of the role of education in facilitating the development of other capabilities. Both IHRL and the CA recognise these.

The CA recognises that education is foundational to the realisation of a life with dignity and central to the development of other essential capabilities, particularly, those needed during adult life and those freedoms that guarantee individuals' well-being and flourishing in dignity (Nussbaum, 2000: 71). Saito, relying on Sen's conceptions of the CA, argues that the expansion of capabilities through education promotes understanding, reflection, information acquisition, and knowledge of one's capabilities, and equally promotes the possibility of formulating the precise functioning that the individual has reason to value (Saito, 2003: 25). For instance, this paper recognises that school enrolment, as practical evidence of education delivery, promotes the capabilities to be literate and educated, to be well nourished when the educated individual gets a job, the capability to engage in socio-political participation and the achievement of human dignity. Both IHRL and the propositions of the CA theoretically recognise that access to education is fundamental to the building, development and promotion of other capabilities ultimately pursuing the human right purpose of education. Here, the centrality of education highlights the instrumental value of education in a manner not dissimilar to neoclassical economic propositions of HCT and IHRL because it is instrumental for the development of other capabilities. In addition, education is intrinsically good because it adds value to life and enables people to better appreciate life and nature, and engage in a wide range of other social activities that are self-fulfilling. This shows that, in agreement with the requirements of IHRL, education has both instrumental and intrinsic values, and improves the freedoms of well-being and agency, which are central to the CA (Terzi, 2007: 31-32). For instance, studies have shown statistical connections between the acquisition of education and changes in diverse aspects of peoples' lives; better-educated people, for example, tend to live longer, more fulfilled lives and seem to transfer better ideas and cultural norms to their children (Terzi, 2007: 32). Lorella Terzi's 2004 UK qualitative research paper on the broadened benefits of learning showed the potency of education for people's psychological and physical flourishing, family life and communication between successive generations including individuals' predispositions, and their motivation and interest to take part in civic life (Terzi, 2007: 32). That is arguably how a society grows. The above-referenced study supports the instrumental and intrinsic values of education achievable through having access to formal education, particularly compulsory education that is designed to adopt a holistic approach at the foundational stage, and IHRL and the CA theoretically recognises this. Education is significant in building, developing and promoting capabilities that enhance the achievement of valuable outcomes and a sequence of disadvantages may result when children have no access to learning, as demonstrated in the E-9 countries with a focus in Nigeria. It is argued that this justification situates under the IHRL framework because it highlights the central necessity of focusing children's education for empowering them for the pursuit of human dignity and not just for an economic purpose, as promoted by neo-liberal and associated neoclassical economic ideals. Arguably, under the CA, the central role of education in stimulating the development of essential capabilities and freedoms is in conformity with the overall purpose of education under IHRL and gives education its philosophical basis as an instrument for the achievement of other human rights, and a life that radiates more fully the inherent dignity of humans (CESCR, General Comment No. 13, 1999: Para 1). This

justifies children's compulsory education.

Justifying the Imposition of Compulsory Education on Children

This section builds on the theoretical complementarity between IHRL and the CA in education and the centrality of learning in guaranteeing the development of capabilities needed to achieve human dignity and argues that the significance of education justifies making it compulsory for each child. It relies on the leading arguments of Sen and Nussbaum and discusses the apparent paradox that making education compulsory for children apparently deprives them of an element (i.e. choice) core to both the CA and IHRL frameworks. It is contended here that, while choice (agency) is an important component of the CA (and the basis for human rights), not allowing children the freedom of choice, particularly in the case of compulsory education, is justifiable as it is essential for the achievement of human dignity. Making education compulsory equally limits the discretion on states since it must be provided to all children within the compulsory education age, whether the State has the resources or not.

Given the central significance of education as a human right in guaranteeing a life with dignity and the undoubted vulnerability of children in their formative years, IHRL makes schooling compulsory for all children.¹ For instance, Article 13(2)(a) of the ICESCR provides:

The States Parties to the present Covenant recognize that with a view to achieving the full realization of this right:

(a). Primary education shall be compulsory and available free to all.

As such, children's compulsory education is unequivocally recognised under Articles 26(1) of the UDHR, 13(2)(a) of the ICESCR, 28(1)(a) of the UNCRC, and Article 4(a) of the UNESCO Convention against Discrimination in Education. This section argues that the recognition of compulsory education of children and not respecting their choice appears to create a tension with the requirement of choice as a key principle of the CA, but maintains that it is justifiable considering the central significance of education in the pursuit of human dignity. The ability of people to exercise choice for a functioning they have reason to value is of significant importance to the CA, according to both Sen and Nussbaum, because this ability is consistent with the inherent dignity of all humans in IHRL. It is argued that choice is a constitutive ingredient of human dignity because it expands the ability of individuals to embark on ventures that are important to them for a valuable life of flourishing with dignity. Under the CA, and in recognition of the inherent dignity of humans, the concept of choice presupposes the innate power to choose what to do in virtue of the opportunities at the disposal of the individual. However, the ability of children to make choice in education was not specifically considered while declaring their education compulsory in IHRL, perhaps because of the importance of education in promoting human dignity (see, *Travaux Préparatoires* of UDHR, 1948). Children are considered to be vulnerable to many influences during their formative years and, to guarantee a self-reliant adulthood in dignity, there is a basic need to ensure they have sound personality development and rational foundations as part of the linear process for the achievement of human dignity (Durkheim, 1973: 17-18; Vallabhajosula, 2014: 127; Anderson, 2000: 424-425).

While the CA attaches much importance to the choices of each individual, it allows qualifications, and children's compulsory education falls under one such qualification. The right to education under the ICESCR and the UNCRC recognises more specifically the choice of children when they have the capacity and reasonable intelligence, and the right of parents to choose for their children (Article 13(3) ICESCR, Articles 5 & 12 UNCRC). Therefore, IHRL allows parents to make choices for their children, because it is assumed that the interests of the child will be best protected by their parents. It is argued that the CA as a rule frowns at any system or arrangement that disallows individuals to deliberately make personal choices. As such, the need to allow each individual to make choices in accordance with what the person has reason to value justifies the position of Sen and Nussbaum in insisting on the promotion of capabilities instead of functioning, and education is central to the development of these capabilities. It follows that the CA requires efforts to be channelled into the promotion of capabilities while functioning should be guided perhaps by individuals' personal choices as a general rule.

Arguably, the possibility of an individual making a wrong choice could be the basis for a guided or alternative choice, and even promoting functioning without allowing for choice, which is at variance with the basic principles of the CA, as is evident in compulsory schooling. This is arguably because giving children the right to choose may present two situations: children choosing not to be educated and children choosing a type of education that may not be helpful in guaranteeing the building and development of capabilities, freedoms and opportunities for a 'life worthy of human dignity' in adulthood.

Nussbaum in justifying the compulsoriness of children's education in IHRL through the lens of the CA, observes that 'children, of course, are different; requiring certain sorts of functioning of them (as in compulsory

¹ By formative years in this paper, it is meant: the developmental stage of a child when basic learning occurs, particularly between the ages of five to fifteen years that forms the foundation for the child's full physical and mental development.

education) is defensible as a necessary prelude to adult capability' (Nussbaum, 2011: 26). She further argues that: Education is such a pivotal factor in opening up a wide range of adult capabilities that making it compulsory in childhood is justified by the dramatic expansion of capabilities in later life (Nussbaum, 2011: 156).

Nussbaum agrees to the promotion of functioning as an exception in the case of children's compulsory education because it builds foundational capabilities which are very important for the achievement of human dignity, a common denominator for both Sen and Nussbaum in supporting compulsory schooling. Nevertheless, on a general note, Nussbaum firmly maintains that governments should promote capabilities through providing opportunities to be educated, making the case of children exceptional. For instance, Professor Richard Arneson, a political philosopher, has suggested that, in some identifiable cases, governments could promote functioning and not capability, relying on policies that are paternalistic e.g. in the area of healthcare i.e. the government could impose lifestyles deemed healthy (Arneson, 2000: 42-62; Nussbaum, 2011: 26). However, Nussbaum disagrees with any type of justification for government policies to deny people the opportunity to make deliberate choices according to the value they attach to their individual ventures. She retorts that: 'Sen and I do not agree with this position because of the high value we ascribe to choice' (Nussbaum, 2011: 26).

Some CA scholars argue in favour of treating children differently from adults, especially children within the compulsory education age, with more focus on functioning than capabilities because they lack the capacity to exercise choice which is common to adults (DeCesare, 2014: 153). Children are almost totally dependent on adults, particularly during their formative years, since they lack mental and physical capabilities (DeCesare, 2014: 160). This *ipso facto* strengthens the argument of the paternalists who contend for children's care to be left in the hands of adults. Following this contention, it is argued that giving adults (or guardians) the opportunity to impose their views on children could make them advance interests that when assessed objectively may not be to the advantage of the child (Article 3(1) UNCRC). In addition, this could create tension between what may be in the developmental interest of a child on the one hand, and that of the adult who significantly makes decisions that bind the child on the other, since children lack the necessary *animus* and capacity for freedom of choice (agency).

Overall, it is argued that the imposition of compulsory education on children, and recognising the choice of parents (adults) in their children's educational development to a limited extent in IHRL, and having regard to Nussbaum's support in her version of the CA, is conceived as the only viable means of building both present and future capabilities, freedoms and opportunities of each child.¹ This, however, as will be seen later, depends on education having certain important qualities (adopting a holistic approach) and not being purely vocational (as it is under HCT).

In relation to compulsory education, Sen argues that:

I think the main argument for compulsory education is that it will give the child when grown up much more freedom and, therefore, the educational argument is a very future-oriented argument (DeCesare, 2014: 161).

Here, Sen recognises the significance of compulsory education in putting the achievement of the human right purpose of education on track even if it restricts children's choices. Saito, relying on Sen's contentions above, argues that 'when dealing with children, it is the freedom they will have in future rather than in the present that should be considered' (Saito, 2003: 26). Therefore, denying children the opportunity to exercise choice by enrolling them in compulsory education in order to build their future capabilities and freedoms for a life with dignity appears clearly justifiable. On the one hand, Decesare, in a critique of Saito's contention, argues that she failed to appreciate clearly the complexity of Sen's thought, as Sen never meant that children require only future capabilities without instant capabilities (DeCesare, 2014: 162). Saito, while admitting that functioning is important to children, suggests that issues of capabilities as they affect children appear rather complicated and problematic (Saito, 2003: 25). It is argued that while Sen's argument above is tied to time and timing ('future-oriented argument'), there seems to be no such complication as submitted by Saito because children need capabilities (both instant and future capabilities) as human beings, and also require functioning particularly during their formative years.

Finally, it is argued that, in the education of children, both capabilities and functioning are important; however, the development of capabilities should take precedence over functioning. For that reason, the main purpose of education, viewed through the lens of the CA, remains the development of capabilities and entails that education through access to the right to education is central in promoting human dignity for all individuals. Hence, this strengthens the need to ensure that every child has sustained access to learning that is designed to prioritise their development interests and underscores the theoretical relationship between the propositions of the CA (as conceptualised by both Sen and Nussbaum) and the requirements of IHRL in the quest to achieve human

¹ It is important to note that parents as well have no choice in the compulsory education of children and are only allowed a limited choice in choosing learning contents and not on the full course of learning contents.

dignity as the human right purpose.

Individuals' Interest-Centred Education as a Common Goal

The recognition of human dignity as the human right purpose under IHRL requires education to be designed in such a manner that prioritises the interest of learners instead of State focused interests as put forward by economic approaches. Sen, from the perspective of welfare economics advocates for a consideration of the capabilities people acquire to achieve those outcomes they have reason to value, which directly reflects in their quality of life. From a philosophical perspective, Nussbaum argues in favour of education that focuses on realising the central capabilities as a precursor for leading a life 'worthy of human dignity'. This means that both IHRL and the CA have a theoretical consensus for requiring education to focus on individual learners and what outcomes they achieve using the knowledge they acquire through education. A key element is that people need to engage in ventures they have reason to value and not those imposed by either the State or Employers. This means that, in discussing human dignity as the human right purpose of education, the propositions of the CA and the requirements of IHRL are complementary because, while IHRL requires education to focus on achieving the human right purpose, the CA, especially Martha Nussbaum's version, theoretically proposes the need for education to guarantee the development of capabilities necessary for leading a life 'worthy of human dignity' (Nussbaum, 2011: 31-32). A basic theoretical relationship between IHRL and the CA is predicated on the overall purpose of education i.e. the stimulation of the quest to achieve human dignity. This paper adopts the two basic criteria suggested by Wiggins and Alkire on the significance of education, namely, the generality and harm principles that are based on Sen's formulations in the CA. Human rights law considers human beings as inherently imbued with 'reason and conscience'; hence they need development so as to nurture and increase their reasoning abilities (Article 1 UDHR, 1948). In consequence, Article 13(1) of the ICESCR provides that, as a universal measure, education delivery must be directed to the 'full development of the human personality and the sense of its dignity'. As such, it is necessary that every individual is fully developed through education, to achieve freedoms and opportunities that guarantee leading a quality of life with dignity and avoid the consequences of being uneducated. This requires education delivery to be driven by the interest of learners through a holistic curriculum designed for the achievement of the overall purpose of education - human dignity. Accordingly, individuals denied the opportunity to receive an education, which is common in E-9 countries, will undoubtedly be harmed by a sequence of disadvantages that affect their quality of life and ability to achieve human dignity (Nussbaum, 2011: 154). This similarly justifies the imposition of compulsory education on children, even without their consent or that of their parents/guardians, and prioritises the need for education to focus on the individual interest of learners instead of that of the State. Access to education promotes the capability to enjoy a good life that make individuals' human dignity more explicit and ensures socioeconomic flourishing, that is the ability to lead a prosperous and flourishing life in dignity and prepares people to be active members of their societies (socio-political participation), which has been argued elsewhere as a social purpose of education. Notably, the achievement of this social purpose, requires an education that is designed to prioritise the interest of individuals. This underscores the theoretical relationship between the propositions of the CA and IHRL. Overall, the CA has significant merits, particularly as it conceptualises education as an essential capability necessary in everyone's quest to achieve human dignity, which appears to be in consonance with human dignity as the human right purpose in IHRL.

The Capabilities Approach: Its Theoretical Relevance in Achieving Human Dignity

This section argues that the CA (from the joint perspectives of Sen and Nussbaum) conceptualises education in a manner that emphasises the need to achieve its principal purposes and as such makes the CA a relevant theoretical approach in discussing human dignity as the human right purpose of education (CESCR, General Comment No 13, 1999: Para 4). It aims to provide an expanded understanding of human dignity beyond its use under IHRL. This section mostly focuses on Nussbaum's version of the CA (and not Sen's except in subsection 5.3.1.), not just because Nussbaum incorporated human dignity considered from a philosophical perspective as a key concept in developing capabilities for well-being, but also because her approach criticises the focus on vocational education and its content under HCT – i.e. focusing on certain subjects and ignoring other aspects of learning deemed not necessary for economic growth of the State (Nussbaum, 2010: 18-23). Nussbaum understands human dignity as requiring a person to meet a sufficient threshold of her list of ten central capabilities (Nussbaum, 2011: 32), as a way of guaranteeing a life worthy of the intrinsic quality of humans. Nussbaum's understanding of what human dignity requires portrays dignity as '[...] something inherent in the person that exerts a claim that it should be developed' (Nussbaum, 2011: 32), and cannot arguably be achieved through limited vocational skills and knowledge as put forward by HCT. As such, according to Nussbaum, only a broad-based education provides the path for the achievement of human dignity. Nussbaum's CA recognises the need for each individual to lead a quality of life 'worthy of human dignity' through capabilities and freedoms acquired in the course of learning (Nussbaum, 2011: 31-32). It is important therefore that, people should

universally instrumentalise education to realise a quality of life worthy of human dignity, which the author has identified elsewhere as the human right purpose, in addition to the need for individuals in society to be the engine that drives economic development of the state (Nussbaum, 2011: 32). This section argues that there is a clear and useful theoretical intersection between IHRL and the CA on the concept of human dignity, and the role the recognition of human dignity in education delivery will play in the overall pursuit of human dignity.¹

This section firstly draws from the work of both Sen and Nussbaum and other scholars of the CA to situate human dignity under IHRL in the CA with the aim of demonstrating the relevance and contribution of the CA in the discussion of human dignity and showing concurrence of purpose between IHRL and the CA. Secondly, it argues that Nussbaum's central capabilities, in principle, are helpful in the pursuit of human dignity and its recognition as the human right purpose of education. Finally, this section argues that Nussbaum's use of human dignity, especially using it to support her argument on the importance of developing capabilities, demonstrates the centrality of education in achieving a flourishing life.

Situating Human Dignity under IHRL in the Capabilities Approach

The CA has been adapted and applied outside Sen's welfare economics into many fields, such as development, philosophy, social policy, human rights and education (DeCesare, 2014: 150; Clark, 2006: 5). In relation to education, Sen and Nussbaum recognises that the CA is helpful in evaluating and assessing learning, its purpose, domestic delivery and policies within social arrangements to guarantee that learning exposes individuals to the needed freedoms and opportunities, through developing their capabilities to achieve human dignity (Nussbaum and Sen, 1993: 30-50). They recognise that, whereas the application of economic principles in education has substituted the purpose and focus of education, in addition, IHRL has no established framework for domestic assessments. As such, this underscores the need for education to focus on stimulating the pursuit of human dignity, which correspondingly promotes the need for universal access to learning as a common problem in all the E-9 countries. Other scholars and authors have adapted the theoretical framework of Sen and Nussbaum in the CA to critically evaluate social formations, policies and theories. In particular, Melanie Walker (Walker: 2007: 177-193) applies the CA to educational policy-making and higher education; Mario Biggeri (Biggeri, 2007: 197-200) in children's rights; Elaine Unterhalter, Melanie Walker and Martha Nussbaum in girls' and women's education and gender equality (Walker, 2007: 177-193); Elaine Unterhalter and Melanie Walker in justice and education (Unterhalter and Walker, 2007: 240-251). However, none of these scholars relates their studies of the CA to the overall purpose of education as a human right under IHRL, or the complementarity it shares with the CA in terms of purpose.² A key contribution of this paper here is the use of the theoretical propositions of the CA to clarify the use of human dignity under IHRL and its understanding as the human right purpose - (the author has discussed the human right purpose elsewhere).

In one of his major works, 'Development as Freedom', Sen considers education in three different senses (Sen, 1999: 3). Firstly, Sen understands education to refer to the totality of the social and economic arrangements that enable and facilitate freedoms and opportunities (Unterhalter, 2003: 10-12). Here, Sen suggests that the freedoms and capabilities education develops largely depend on the hierarchical services in place within the education domain, and other socioeconomic arrangements that have significant effects on access to education, such as the enjoyment of other socioeconomic rights that enhance learning (Sen, 1999: 3). This supports and underscores free universal compulsory education to protect the learning interests of children as vulnerable humans and the need to achieve human dignity. Secondly, Sen argues that education tends to have a causal affiliation with freedom; in other words, freedoms are formed and guaranteed through education and it is the purpose of education as a human right to assist in the enhancement of all individuals' freedoms and not just the acquisition of those skills and knowledge that are relevant for the realisation of an economic purpose as proposed by neoclassical economic ideals. This starts with the enrolment of children in the free compulsory education required by IHRL, having regard to the existence of problems of access in E-9 countries like Nigeria. Sen argues that education largely determines the level of human capabilities and individual freedoms that each person has access to and has a linear connection with other human rights and the achievement of the human right purpose (Sen, 1999: 41-42, 293). Thirdly, Sen maintains that the acquisition of skills and knowledge (cognitive resources) through compulsory education as a human right of each child tends to enhance participatory freedom. Sen gives instances of the education of women which enhance their agency and other human rights, and their social participation both in society and the family (Sen, 1999: 192; Unterhalter, 2003: 10-12; Nussbaum, 2011: 153).

Since Sen conceptualises human development as the ability of people to lead a life of freedom, and to choose what to do and to be, depending on what they individually have reason to value, it is an essential purpose

¹ Both the Right to Education under IHRL and the Capabilities Approach have a similar purpose, which is to ensure that each individual is able to lead a life with dignity.

² The CA has been adapted to the study of development, gender, social justice, women and girls, education, human rights, poverty reduction, etc. however, these studies have not engaged with education as a human right under IHRL from the perspective of its purpose, and the need to achieve the human right purpose of education under IHRL.

of education as a human right of all to build and enhance those universal freedoms (Nussbaum, 2011: 17,23). So, not having access to schooling simply means the absence of these freedoms and the inability to choose what to do and to be. In Sen's conception of the CA, education is central to human development and the ability of people to pursue independent courses that enhance their freedoms and promote 'a good life' without 'misery and unfreedom' (Sen, 1999: 14; McCowan, 2011: 285). The centrality of education requires that for people to develop capabilities and freedoms that promote human dignity (life without 'misery and unfreedom'), everyone needs to have access to schooling delivered as a universal human right of all from the perspective of its human rights purpose, particularly, the compulsory education of children, which IHRL requires to be free and universally available.

Both Sen and Nussbaum, from their various perspectives of the CA, conceptualise the significance of education in the development and expansion of human capabilities, freedoms and opportunities for all individuals. Nussbaum appears to have incorporated ideas of social justice and demonstrates that the CA could offer a valuable metric for the level of equality in access to education and school enrolment in States like Nigeria as an E-9 member (Nussbaum, 2011: 19; Nussbaum, 2000: 71). This is why the CA can be helpful in identifying inequalities in access to education, while, on the other hand, IHRL requires universal distribution of compulsory education to all children without discrimination. Therefore, to achieve the ideals of the CA, there is a need to mainstream human rights in education delivery to guarantee equal access and the achievement of the human right purpose for all persons. The CA makes possible the assessment of social arrangements, particularly in education, primarily to ensure education delivery encourages universal distribution. It ascertains the extent of freedoms and opportunities that education creates for individual learners to achieve those outcomes in consonance with human dignity (Alkire, 2008: 28). This arguably creates a tighter obligation for states than IHRL, according to which the right to education is subject to availability of resources and overriding States' discretion as it becomes necessary that each person is given access to education. Thus, this argument gives greater weight to the requirement of compulsory education for children as a matter of right (human rights) in order to guarantee the development of their capabilities and freedoms necessary for a quality of life 'worthy of human dignity'. This is arguably possible when education delivery recognises the human right purpose of education and designed in a manner that promotes the interest of individuals instead of the state. Compulsory education in IHRL thereby acquires its fuller theoretical justification under the CA.

Nussbaum's Central Capabilities and Their Significance to Human Dignity

Nussbaum formulates a list of ten central capabilities, arguing that education is crucial to the achievement of these central capabilities, and human capabilities in general. The central capabilities are: (1) life, (2) bodily health, (3) bodily integrity, (4) senses, imagination and thoughts, (5) emotions, (6) practical reason, (7) affiliation, (8) other species, (9) play, and (10) control over one's environment (Nussbaum, 2011: 19-20). This section argues that Nussbaum's philosophical version of the CA and her central capabilities are relevant to the discussion of human dignity and the central role of education in the pursuit of human dignity. This section argues that Nussbaum enquires into 'the [...] process of education', while Sen's version is more useful in discussing and critiquing policies and theories pertaining to education (Unterhalter, Vaughan and Walker, 2007: 1). In addition, Nussbaum's CA appeals more to political and legal concepts than to socioeconomic applications (Alkire, 2002: 32), which are more relevant for the human rights purpose education seeks to achieve under IHRL. She suggests a 'public conception' of the person that 'cannot imagine living well without shared ends and shared life' (Walker, 2014: 330). Nussbaum argues that the question 'what are capabilities?' can be addressed by asking 'what is this person able to do and to be?' (Nussbaum, 2011: 20) Although Nussbaum conceptualises a different version of the CA from Sen, adding concepts like 'human dignity', 'threshold', and 'political liberalism', she is theoretically in agreement with Sen on the need for education to be directed to human capabilities development, and on the expansion of freedoms and opportunities so that an individual can choose a valuable life (functioning) 'worthy of human dignity', which under IHRL means human dignity as the human right purpose education should seek to achieve (Nussbaum, 2011: 31-32). Nussbaum puts these central capabilities forward as essential combined capabilities needed for each individual to lead a life with dignity, according to each individual's ability. She further posits that the ten 'combined capabilities' are only achievable through the use of 'internal capabilities' within good enabling socioeconomic, political and environmental conditions (Nussbaum, 2011: 21; Alkire, 2002: 33). She argues that a State that intends to promote the most vital human capabilities needs to support the development of internal capabilities through education (realising the human right purpose of education) and other essential socioeconomic rights (Nussbaum, 2011: 21). The crux of Nussbaum's position is that many factors jointly determine peoples' ability to develop capabilities and afterwards use them to achieve a life worthy of the dignity of humans. It is therefore argued that social conditions put in place and regulated by the State play a principal role in the opportunities and choices people have and their use for a life 'worthy of human dignity'. According to the Aristotelian conception of human dignity which formed the basis for Nussbaum's theory of dignity, if human beings have worth and dignity, it will be unworthy of them to live a life

that does not reflect that worth (dignity) (Weithman, 2008: 457). The Aristotelian argument is based on the following set of propositions:

- (a) Human beings have worth
- (b) A life in which someone lacks the threshold capacities is not a life worthy of human beings (Weithman, 2008: 457).

In answering the question, ‘what does a life worthy of human dignity require?’ Nussbaum asserts that it requires a good threshold level of the ten central capabilities (Nussbaum, 2011: 32). Premising her thinking on human dignity and its demands, and relying on Aristotelian arguments, she suggests that a minimum threshold of these key capabilities are required to be met by every government as a task central to governance (Nussbaum, 2011: 31-32). This good minimum threshold cannot be met when people are not given access to an education, as is the case in Nigeria and other E-9 countries. The ten central capabilities, which, according to Nussbaum, are only achievable through education, are ‘distinctively heterogeneous’, because the satisfaction of one does not by extension satisfy or achieve others; each capability needs to be achieved and protected separately (Nussbaum, 2011: 33; Walker, 2003: 173). Nussbaum argues that the ten central capabilities tend to support each other in several ways, but that two of them, namely ‘practical reason’ and ‘affiliation’ play distinctive roles, as they permeate and substantiate all the others (Nussbaum, 2011: 39). She, therefore, asserts that any human life that lacks any of the ten combined capabilities is ‘deprived’; and a human life that is deprived arguably lacks human dignity (Alkire, 2002: 165). This underscores the significance of access to schooling. Nussbaum further suggests that all States (governments) should see the central capabilities as the minimum core of the demands of human dignity and a philosophical basis for constitutional inclusion (Crocker, 2008: 199). This, in turn, may arguably be used to require legislative processes and measures within the State to incorporate these capabilities into internal enactments.

It is argued that, amongst Nussbaum’s ten central capabilities, three of them, ‘senses, imagination, and thoughts’, ‘practical reason’, and ‘affiliation’, are more relevant to education and appear to have connections with human dignity as the human right Purpose of education in IHRL. They will now be briefly discussed to demonstrate how they relate to education as a human right and human dignity as the human right purpose.

Senses, imagination, and thought are defined in the following way by Nussbaum:

Being able to use the senses, to imagine, think, and reason – and to do these things in a ‘truly human’ way, a way informed and cultivated by an adequate education, including, but by no means limited to, literacy and basic mathematical and scientific training. Being able to use imagination and thought in connection with experiencing and producing works and events of one’s own choice, religious, literary, musical, and so forth. Being able to use one’s mind in ways protected by guarantees of freedom of expression with respect to both political and artistic speech, and freedom or religious exercise. Being able to have pleasurable experiences and to avoid non-beneficial pain (Nussbaum, 2011: 33).

This capability presupposes the ability of people to behave like rational individuals imbued with reasoning, thinking and logical capacities without restriction and forms the basis for recognising all humans as having inherent dignity under IHRL through Article 1 of the UDHR 1948. It recognises the ability of individuals to make use of their cognitive skills, logic and intellect which can only be cultivated through an education that has defined objectives and can lead to a life ‘worthy of human dignity’ and not necessarily a learning contoured within vocational boundaries that focuses on imbuing specific skills and knowledge. It is argued that this is only possible when education is holistically designed, taking cognisance of the need to develop individuals’ capabilities and opportunities for a valuable functioning (end) which is in consonance with the requirements of IHRL. This is apposite considering the significance of education and the need to allow education to develop and promote freedoms and opportunities needed to achieve human dignity.

As for practical reason, Nussbaum defines this as:

Being able to form a conception of the good and to engage in critical reflection about the planning of one’s life. (This entails protection for the liberty of conscience and religious observance) (Nussbaum, 2011: 34).

This combined capability is built in and developed by education and supports the argument that education must be able to inculcate certain essential capabilities, freedoms, and overall enhance each individual’s ability to use reason and thought in making important practical choices and decisions about life. As such, there is a need for an education that broadly imbues cognitive resources by way of developing capabilities, freedoms and opportunities to be a fully developed autonomous individual that can make good use of reason. IHRL has a similar emphasis/approach whereby each individual’s potential is required to be fully developed so as to guarantee the achievement of human dignity.

Nussbaum defines affiliation in two ways, namely:

- (1) Being able to live with and toward others, to recognize and show concern for other human beings, to engage in various forms of social interaction; to be able to imagine the situation of another. (Protecting this capability means protecting institutions that constitute and nourish such forms of affiliation, and

also protecting the freedom of assembly and political speech.) (2) Having the social bases of self-respect and non-humiliation; being able to be treated as a dignified being whose worth is equal to that of others. This entails provisions of non-discrimination on the basis of race, sex, sexual orientation, ethnicity, caste, religion, national origin (Nussbaum, 2011: 34).

Affiliation as a combined capability guarantees individuals' abilities to properly fit into the social system and interactively understand other peoples' social behaviour in a democratic society. Individuals need to be rational in thinking with a good level of cognitive resources in order to be able to appreciate other peoples' social conditions, which Nussbaum calls 'narrative imagination' and only made possible through access to learning (Nussbaum, 2006: 390). This capability is built, developed and expanded through education, and appeals to the sense of the dignity of individuals and to the fundamental need for every individual to be treated equally and in a manner that strengthens their human dignity. It enables people to be sympathetic and considers other people who are different and imagining being in their situation i.e. education of sympathy (Nussbaum, 2006: 388). Arguably, this capability is in consonance with the development of democracy as a social purpose of education. It prioritises the role of individuals within the social domain and therefore entails that people must take advantage of education to develop their capabilities enabling them to prepare 'to participate effectively in a free society' as required by IHRL. This is arguably more realisable when access to education, particularly compulsory education, is seen as a human right of each child and focuses on achieving its human right purpose.

Taken together, it is argued that from the viewpoint of both IHRL and the CA, Nussbaum's list of central capabilities is essential to every individual to guarantee human personality development and the realisation of human dignity.¹ Therefore, it is suggested that the capabilities necessary for a life 'worthy of human dignity' according to Nussbaum can only be developed and expanded when education delivery is designed to do so fully, but not when it adopts a narrow approach that tends to prepare people only for the labour sector i.e. achievement of an economic purpose through a vocational education. This is where the adoption of neo-liberal and associated neoclassical economic policies in education delivery has arguably failed, since *ab initio* it adopts a narrow strategy that only focuses on the inculcation of those vocational skills and knowledge needed for the labour market to guarantee the ability of people to contribute to the State's economic development (i.e. economic purpose) through the labour sector. It is argued that individual human personalities do not necessarily develop with the State economy when the primary focus of education is on the achievement of an economic purpose, using individuals as agents rather than on the full development of everyone as a *sine qua non* for the achievement of human dignity. The CA, as reflected in Nussbaum's central capabilities, recognises the need for the design and education delivery process (in conformity with the obligation on States) to focus on developing the capabilities of each individual to guarantee diversified opportunities that promote human dignity.

This tunes in with IHRL as, according to paragraph 4 of General Comment No 13 (1999) of the Committee on Economic Social and Cultural Rights (CESCR), the objectives of education under Article 13(1) of the ICESCR have been deemed fundamental. The CESCR advises that education delivery must focus on the achievement of its human right purpose, which the author argues to be human dignity (CRC, General Comment No. 1, 2001: Para 1-4). The CESCR suggests that:

[o]f those educational objectives which are common to article 26 (2) of the Universal Declaration of Human Rights and article 13 (1) of the Covenant, perhaps the most fundamental is that "education shall be directed to the full development of the human personality" (CESCR, General Comment No. 13, 1999).

The above *dictum* of the CESCR arguably justifies compulsory schooling and the need for every child to be given access to education and brings to the fore the need to adopt a holistic education delivery approach that recognises human dignity as the overall purpose education must seek to achieve. This argument will be taken further to justify the centrality of access to education in preparing a springboard for the realisation of human flourishing.

Human Dignity under the Capabilities Approach: The Centrality of Education in Guaranteeing Flourishing

This section relies upon Nussbaum's understanding of human dignity, and it argues that her concept of a 'dignified and minimally flourishing life' made possible by education, can be conceptually related to the human right purpose of education under IHRL. According to Nussbaum, a flourishing life is one in which people can maximise and exploit the opportunities offered by the capabilities and freedoms at their disposal to achieve the desired outcome that guarantees human dignity (Nussbaum, 2011: 33). The capability of people to develop competences and freedoms that enable them to live a life of flourishing, according to Nussbaum, epitomises human dignity. Under IHRL, human dignity is an inherent quality of every individual that is stimulated by access

¹ This is without prejudice to the Criticisms against Nussbaum's version of the CA and specifically against her ten lists of central capabilities. Because of the scope of this paper, the criticisms against Nussbaum's list of ten capabilities will not be discussed here.

to schooling. As such, it is suggested that the concept of human dignity under the CA captures the essential ingredients of dignity in IHRL.

Therefore, under the CA, human dignity entails each person's ability to develop capabilities, freedoms and opportunities that are not below the threshold of capabilities needed to promote a life 'worthy of human dignity'. According to Nussbaum, the recognition of human dignity demands that no individual should lead a life that is below the threshold, as it negates the ascription of dignity to humans and the need for everyone to lead a life that is worthy of that dignity. That is, if human beings have intrinsic worth by reason of their nature as humans, it is important that the life they lead does not go below the threshold needed to maintain a life with dignity. Here lies the theoretical complementarity between the propositions of the CA and the requirements of IHRL in education and the role it plays in guaranteeing the level of human development that is a prerequisite for the achievement of human dignity.

The CA evaluates the level of freedoms and opportunities at the disposal of each person that enables the achievement of valuable outcomes (functioning). An important element in this relationship is the ability of each individual to deliberately choose ventures specifically relevant to the individual that is in tandem with the inherent dignity of all human beings. Nussbaum argues that it is a governmental obligation to guarantee each individual the ability to pursue certain levels of flourishing and dignified life. She suggests that:

Given a widely shared understanding of the task of government (namely, that government has a job of making people able to pursue a dignified and minimally flourishing life), it follows that a decent political order must secure all citizens at least a threshold level of [. . .] central capabilities (Nussbaum, 2011: 33).

According to Nussbaum, it is the duty of governments to guarantee the development and promotion of freedoms and capabilities through the protection and delivery of education in compliance with each State's human rights obligations. Nussbaum's point here is significant not only for the CA but because it develops and highlights the limited States' responsibilities towards education delivery within the framework of IHRL.

Conversely, flourishing which is an outward reflection of human dignity entails a sequence of processes that terminates with a particular state of affairs or mode of being that thrives, or in other words leading a successful life with dignity (Kleinig and Evans, 2013: 542). It is argued that human flourishing is individualised and not primarily restricted to matters of physical development and reproduction but includes 'intentionality, experience [. . .]', however, it is individually dependent (Kleinig and Evans, 2013: 542). Since it applies to an individual, it requires the development of the person through education so as to purposefully choose prosperous ends. It is argued that each individual's growth is largely dependent or regulated by the person's interests and skills acquired through education. For instance, X can flourish in the art of music because X chose music and developed the requisite capabilities that enable musical expertise. Similarly, Y can make progress in academia as Y has an interest in academia and can develop through acquiring all the necessary capabilities needed to do well. In a similar vein, it is argued that what individuals need to flourish might be dependent on time, e.g. an individual may need different freedoms and capabilities in the course of life to continue prospering. For instance, the capabilities and opportunities a child in compulsory schooling needs might vary from those needed during secondary education. This is why this paper argues in favour of providing compulsory education as a way of developing foundational capabilities for a life of flourishing and living with dignity. Therefore, the right to education is arguably central to the acquisition of capabilities needed to achieve both dignity and a prosperous life, and as such, increases the need for everyone to be provided access to schooling designed from the perspective of its human rights purpose.

Arguably, education can only guarantee human dignity (epitomising human flourishing) when designed to adopt a holistic approach instead of a vocational approach proposed by the HCT that focuses on an economic purpose (CESCR, General Comment No. 13, 1999: para 4). This underscores the significance of access to schooling and the achievement of human dignity and the disadvantage people are likely to suffer when they do not have access to learning. Hence, the building, development and expansion of capabilities through a holistic approach to learning delivery remain a *sine qua non* for a flourishing life with dignity and represents Nussbaum's conceptualisation of human dignity under the CA.

Conclusion

In conclusion, this paper endeavoured to clarify the understanding of human dignity as encompassing not just the power to use *reason* and *thinking* abilities as argued under IHRL but including what people are able to achieve that is important to them (i.e. people's desired outcomes) using the instrumentality of the learning they acquired. Based on Sen's conceptions, this is readily evident in the quality of life of an individual and the freedoms that suffuse it; and Nussbaum pins it down to being able to lead a life 'worthy of human dignity'. It is argued that, considering the central significance of education in the development of capabilities needed in order to achieve human dignity, which supports and justifies children's compulsory education, it brings to the fore a tighter obligation on States that whittles down their discretion because it is necessary that each child is given access to

schooling. This is more significant having regard to the challenges of access to schooling in E-9 countries and brings to attention the need for states to explicitly recognise the purpose of education in legal and policy mechanisms, since the CA clarifies the overall purpose of education. This promotes the pursuit of human dignity considering its fundamental significance in forming springboard for a flourishing life.

Disclosure Statement: *The author report there are no competing interests to declare*

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