Nigel:

When Daniel first suggested a joint paper for this symposium, bringing together capability theory, recognition theory and his actor’s system model, I was intrigued but also sceptical as to whether we would easily achieve a synthesis. Eventually we agreed that what we should present was a dialogue about the possibilities of doing so. The format of this presentation is therefore that Daniel will say some things and I will say some things in response; then Daniel will say a bit more, then I will say a bit more, and then we can all have a discussion. So, Daniel...

Daniel:

I think it is interesting to start with the Weberian perspective about domination. With the adoption and ratification of the UNCRC, the social construction of childhood has been framed by legal domination (Weber, 2013). The legal domination associated to human rights, when extended to children through a binding normative instrument (UNCRC), can only logically include children as stakeholders in the implementing of their own rights. But how much power do they really have in this process? The power of children over the official or dominant interpretation of their own rights is weak. We know that the provisions of the UNCRC were crafted by adults for the presumed benefit of children, and also that they are at the same
time reinterpreted by children themselves (Hanson and Poretti, 2012). But how much of children’s voices is “re-injected” into debates around specific provisions of the UNCRC?

Research predominantly shows that the legitimacy of children’s voices remains restricted by adults’ views and expectations. Children’s voices are legitimate to some extent, but they have no real power, they don’t rule. A closer look at the concept of “Herrschaft” (rule, domination) in Weber’s work is interesting. Domination (“Herrschaft”; rule) is the potential to be obeyed, which comprises the fact that those who obey have a certain interest, internal or external, to obey (Weber, 2013). Regarding children’s rights, in civil and administrative procedures the authorities taking a decision have a certain (external) interest (professional mainly) – they may also have an internal one (ethical or other) – to abide to the provisions of the UNCRC and their respective legal translations in their own jurisdiction. Hence, it is not children themselves but primarily the UNCRC provisions (or the legal domination behind them) that give children some influence over decisional processes.

Children’s own influence is still heavily limited by the interests of adults and their interpretations of UNCRC provisions. I would say that the interests of adults professionally engaged in works with children are only partially influenced by these rules, as many simply do not know them, especially participation rights. Whereas the interests of adults in daily contact with children in the private sphere may be influenced by many normative frameworks, the UNCRC being just one possibility among many others. Therefore, the problem of the respect of children’s rights is linked to the question of domination and the interests of stakeholders in societies ruled by legal domination.

So this is my point of entry: The interests of adults play a major role in the ways legitimate children’s voices are channeled and transformed into more or less agency for children. I think the capability approach, developed notably by Amartya Sen (1999) and Martha Nussbaum (2000), and only recently applied to children (Biggeri et al. 2010; Biggeri et al. 2011; Dixon and Nussbaum, 2012) and to children’s rights (Stoecklin & Bonvin, 2014, forthcoming), gives us good lenses to conceptualize the gap between children’s formal liberties (rights) and their real freedom (capability). As you may see in the diagram, children’s rights are entitlements that are mediated by personal and social conversion factors during their transformation into a “capability set”, that is a range of possible functionings among which the social actor chooses one or several modes of functioning he has “reasons to value”.

I will talk later about the backwards arrows (feed-back loop) in this diagram. For now, I would like suggest some links with Honneth’s theory of recognition, which you addressed (Thomas 2012), and invite you to react:

From the three modes of recognition in Honneth’s theory (Love / Rights / Esteem), only the second one (rights, respect) is an entitlement. With the UNCRC children have become entitled with subjective rights. They are not and cannot be entitled either to love nor to esteem, as these are psychosocial dimensions that cannot translated into legally binding principles, as the State parties would be unable to guarantee such things. But when children are entitled to rights, there must be some changes happening in the affection and esteem children receive and give. Actually, the modes of recognition Honneth calls “love” and “esteem” might be seen as conversion factors (see capability diagram) that are necessary to transform legal entitlements into a really enhanced capability.

Hence, and coming back to Weber, the legal domination takes in also aspects of traditional and charismatic domination. My hypothesis then is that the rationales behind giving someone or denying him Esteem, make up a central conversion factor that gives children the capability (real freedom) of being rights holders with some power. This hypothesis is already substantiated by the fact that, according to several authors, including you (Thomas, 2009) and me (Stoecklin & Bonvin, 2014), the narrative of children’s rights is hardly present in the discourses of young people when they account for their experiences of participation. They depict their participative experiences primarily in the modes of love and esteem. I think that esteem is
also present in more formalized procedures (administrative and judicial), where children’s opinions, and consequently their “due weight” as decision makers, depend on the assessment of their maturity. As we know this assessment is only exceptionally based on formalized procedures (cognition tests, etc.) but merely always on hidden criteria. Bourdieu’s notion of habitus is certainly helpful here. I think that what Weber calls the “charismatic idealization of ‘reason’” (Weber, 2013: 411) that since Enlightenment reflects the belief in individual “reason” as the basis for a better world (on the grounds that the individual knows better than anybody else what his own interests are) has been incorporated in the dominant habitus (Bourdieu). Maturity is assessed along an implicit definition of individual “reason”. Therefore, I see Honneth’s theory of recognition as very interesting. I would suggest that love and esteem are “procedural conversion factors” in a particular sense. They are not directed at children themselves, but at individual “reason”, as an abstract construct. used as a “rationale” to giving or denying someone Esteem. It is this hidden habitus that is used to consider specific children as “valid” or “invalid” holders of participation rights and I think this is linked to what Weber called the “interest, internal or external, to obey” (Weber, 2013). Children’s capability might well depend on this hidden rationale behind Esteem.

So, Nigel, here is my question to you: would you agree with me that esteem for specific forms of individual reason would be a cornerstone of legal domination, and consequently children’s rights could be entitlements enhancing the capability of some children more than others?

Nigel:

If we take rights as central, then everything you have said makes a great deal of sense. However, I think we need to look more broadly than that. I want to argue that struggles over recognition cannot be contained within a framework that is structured by the concept of rights, especially rights as defined in legal, or quasi-legal, terms.

Before I develop that, I want to say that I also agree that, on one level, the idea of a right to love, or a right to esteem, seems absurd. This is, of course, something that we have already discussed together. On another level, it does seem to make sense to say that if someone, especially a young child, is deprived of the opportunity to be loved, then they are being denied something to which we would want to regard them as entitled, as a person. Likewise, if someone’s contribution to the community is not recognised because they are not seen as a person or a member, then that feels like a denial of rights too. On the other hand, if their contribution is not recognised because that particular kind of contribution is devalued, then that may be a problem, but it is not, I would argue, a problem about rights.

The relationship between the three modes of participation is a complex one, which is one of the things I find fascinating about Honneth.
Honneth presents the three modes in a constant order that might seem to imply a hierarchy; but we know that they do interweave, that they are in the lived reality of a person, or of a society, co-dependent in a variety of ways. Although Honneth himself positions love as the primary mode in childhood, I have argued elsewhere that his theory needs to be opened out to recognise children as entitled to respect and deserving of esteem – and that adults continue to struggle over the first mode of recognition too. So these are not stages to be passed through, and there is not a fixed order to be followed, challenged or reversed. It’s much more complex than that.

It is partly because of that interweaving and co-dependence that I’m not sure about reading love and esteem as conversion factors in terms of capability theory. It seems to be that, rather than synthesising the two theoretical frameworks, this has the effect of making one subsidiary to the other. In the process it loses two important elements in Honneth’s theory: namely the equal weight given to all three modes of recognition, and the concept of a struggle over recognition that may be focused on any or all of them.

A struggle over recognition in an intimate relationship can have meaning without any reference to rights, or indeed capabilities. The need to be loved, and to love, is in that sense, in its own terms, primary. In saying that I do not think I am saying that love is in some sense more important than rights; just that the field of intimate relationships is a distinct field, in a Bourdieusian sense, which may intersect with other fields including the field of rights, without being subsumed. Likewise we can see esteem and ‘solidarity’ as constituting a distinct field in which struggles over recognition can take place, based on competing values – a field which intersects in important ways with the field of rights, but again without being subsumed in that, because as a field it has its own rules, its own structures of capital and habitus, and so on.

King and Piper should have alerted us to the dangers of law as an autopoietic system, imposing its own definitions of reality, truth and relevance on other fields without showing due recognition of their separate
integrity. Rights talk has that same possibility of asserting dominance over other kinds of discourse. There is a particular danger in relation to the Convention on the Rights of the Child (even though it is in some respects anomalous in the broader field of rights, perhaps because of the borderline status of children as rights holders – something which we may come back to) that its near-universal acceptance and its permeation of the field of child-related policy and practice give it a foundational standing which it does not necessarily merit. This is something which you, Daniel, touch on when you point out that children had no part in constructing the Convention and that children may have their own versions of what their rights are. Matías Cordero, in his article last year which I personally think is one of the most important contributions to this area in recent years, argues – if I read him correctly – that children’s rights only have real validity, and real traction, when they are defined and advocated by children themselves, as has happened with the child workers’ organisations in various parts of the majority world. Which of course brings us right back to the struggle for recognition – in this case for recognition of children as persons entitled to respect for their human rights (and incidentally – or not so incidentally – for recognition of the value of their contribution to society).

Now I seem to have come full circle, because I find myself about to argue that it is precisely because those child workers are making a contribution whose economic and social value is recognised that they are able to insist on recognition of their rights as persons; which sounds as if I am after all agreeing with you that esteem is a conversion factor which enables children to realise their rights. And so it is, in some important respects. What I am trying to resist is the idea that this is all there is to be said about esteem, or solidarity. The fact that in some of our small-scale research we have found that esteem appears more salient for children and young people than rights, cannot be taken to mean that recognition in the form of esteem is merely a relatively achievable step on the road to achieving recognition in the form of rights. Esteem is not so easily achieved, in many contexts. Even in the field of child labour there are powerful voices denying its validity; and when we look at the work of children in the education system, there is still a major struggle to have that recognised as an important contribution, in which children are actually producers rather than merely consumers.

Where does this leave us in our attempt to reconcile recognition with capability theory? I wonder whether it would make sense to regard all forms of recognition as potential conversion factors in achieving capability, defined for example by Sen (2010: 237) as ‘real opportunity to achieve those things [we have] reason to value’. This is not to subsume it under rights, because rights are not coterminous with capabilities. It is perhaps to indicate a path to a conversation between two theoretical frameworks which both have power and validity in themselves, but which perhaps can also usefully talk to each other. As we are doing...

Daniel:

There is indeed no “right to be loved” with clearly defined duty bearers who can have control over what is in the end a moral attitude. But there is no doubt that a loving recognition or the absence of it will differently influence one’s further understanding of rights. We should be auto-reflexive at this point: this foundational aspect of love informs our own understanding and engagement in and for children’s rights. Is it not precisely some kind of misrecognition, when it happens, that makes people use the rights discourse and its powerful,
as you say, “autopoietic system”? The rights discourse is probably an outcome of romanticism: rights as an antidote to the absence or scarcity of love… This could explain the historical movement towards bureaucratic domination (Weber) imposing technicalities in the field of children’s rights (principles, general comments, implementation rules, responsibilities, etc.) and eventually colonizing all territories, down to every smallest human attitude. Children’s rights brought at the top of a new hierarchy, should be critically analysed as a social movement. Using Honneth’s theory of recognition helps, I think, avoid the trap of simply reverting the order of the modes of recognition. The concept of “interweaving” modes of recognition, as you put it, is far more relevant to address the co-dependence of persons in society.

Interweaving modes of recognition can, in my view, be empirically approached with conceptual frameworks that see elements of reality as retroacting on one another in a dynamic and systemic way. I consider the model “actor’s system”, which I already presented in other conferences and publications, as one possible framework.

All dimensions are both structured by others and structuring them, and this, I think, helps considering co-dependence as a co-recognition. There is no hierarchy in this model: there is no beginning and no end. It’s like a turning wheel. So we have the turning wheel of individual action systems, all diverse or turning at different “speeds”, and these billions of individual wheels are circling the big wheel of society. We can imagine the movement of this big wheel in the feed-back loops (backwards arrows) in the capability model “whereby achieved functionings, in later sequences, retroact on the social definition of individual entitlements as well as they become part of the configuration of personal and social factors that convert these entitlements into an ever evolving capability set” (Stoecklin & Bonvin, 2014, forthcoming). This (re)interpretation also corresponds to the bottom-up translation of children’s rights, or “living rights”: the
understandings of rights as they are experienced by children in different contexts (Hanson and Poretti, 2012).

Therefore I agree with you that we should not merge the theories but combine them. On one hand, the capability theory is too much linear if we don’t consider the feed-back loops, and Honneth’s theory would be too much hierarchical if we don’t see modes of recognition as interweaving modes. I would suggest that the concept of “interweaving modes” and “recursivity of action systems” might inform further research where one would observe how cumulative experience is marked by the presence or absence of one or several modes of recognition. I think you address a fundamental issue that is that all forms of recognition are potential conversion factors. Conversion factors are not outside people, they are in the meanings they give to the outside world (including values). Therefore I see all kinds of values (which may be conflicting, and that people use to recognize each other as being insiders or outsiders) as embedded in “systems of action” stemming from and contributing to interweaving modes of recognition.

Nigel:

Thanks Daniel. That’s given me a lot to think about.

To take first your question ‘Is it not precisely some kind of misrecognition, when it happens, that makes people use the rights discourse...?’ Yes, that’s probably true, but I’m not sure whether you can link it straightforwardly with love and the romantic. Surely it’s only in primary or intimate relationships that this applies. The modern extension of the sphere and reach of rights mainly relates, I think, to people with
whom we do not have such relationships; particularly to strangers. And yes, children’s rights should be critically analysed as a social movement.

I like the idea of the model as a turning wheel. It reminds me of Martin Buber: ‘The world is a spinning die, and everything turns and changes.’ On the other hand, Honneth’s theory is one of progress, and so, I think, implicitly at least, is Sen and Nussbaum’s theory. So all the turning and changing is expected to lead somewhere, on a secular plane. Still, the concept of retroaction seems to me a fruitful one, for understanding better how this can happen in practice. And I agree that this conception fits well with the concept of ‘living rights’ (Hanson and Poretti, 2012) as understood and experienced by actually existing children. To return to the borderline status of children as rights holders, I’d like to draw attention to the paradox of children’s right to participation, something which I was recently privileged to discuss with Nandana Reddy in India. So we have here a right of children and young people to participate in decision-making that affects their lives, as individuals or collectively, in some sense on equal terms with other participants. But it is a right that has been asserted for them by adults, defined and agreed by adults, and which in most cases they have to rely on adults to inform them about and to support them in exercising. When do they take charge of these definitions for themselves, as Black people, women and disabled people have done? Do we assume that will never happen – that children are so bound to their temporary structural position that self-definition will never be more than a theoretical possibility, if that? As an optimist, I think that Matías, and the working children’s organisations, show a way forward. The way in which they may do this can be read as a struggle for recognition and simultaneously as an extension of their capabilities.

I’m still not convinced that we gain by attempting to combine, in the sense of synthesising, the two theoretical frames. However, I can see the value of using them both side by side, as different takes on the same reality.

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