

Human Rights Pedagogy for Empowering the Agency of students: An assessment of IHRIP through the Capabilities Approach Framework

Nandini Ramanujam and Kassandra Neranjan

Abstract

This paper interrogates the potential of the Capability Approach informed legal pedagogy in empowering the agency of students. In assessing the experience of McGill University Faculty of Law's International Human Rights Internship Program and its companion course Critical Engagements with Human Rights, this paper posits that the Capability Approach to teaching and learning about human rights, in the context of legal education, empowers future jurists and enables them to engage with global human rights in an ethical and professional manner. Analyzing every step of the process from advertising, selection, internship, class discussions, and more, this paper reverse theorizes how students' capabilities are enhanced by empowering their agency to action-oriented engagement with human rights dilemmas in diverse contexts. The philosophical underpinnings of the Capabilities Approach are effective in fostering a nuanced and pluralistic understanding of the real-world challenges of advancing human rights.

Introduction

This paper attempts to assess the International Human Rights Internship Program (IHRIP) and its companion course “Critical Engagement with Human Rights” through the lens of agency. The paper argues that right from the recruitment process to the writing of the capstone research paper, students are encouraged and supported to pursue their interests in human rights work and exercise their agency to shape this learning experience, which for many is a transformative one. The short yet immersive experience not only contributes to students gaining rich insights into the complex realities of human rights work, but it also facilitates the development of professional skills and personal resources, which serves them well in their future work as jurists. The Capabilities Approach¹ provides an ideal theoretical framework to assess this multi-dimensional programme. IHRIP has been in existence since 1996, but this is the first attempt to evaluate the philosophical underpinnings of the programme and its pedagogical principles using a theoretical framework – here being reverse theorizing. This qualitative analysis assesses the value of the Capabilities Approach informing legal pedagogy in empowering students to carve out their own paths to engaging with human rights work. The paper posits that this approach also allows students to

¹ See generally, Sabina Alkire & Séverine Deneulin. “Chapter 2: Introducing the Human Development and Capability Approach” in Sabina Alkire & Séverine Deneulin, eds, *An Introduction to Human Development and Capability Approach* (London: IDRC) 22.

develop a more sophisticated and granular understanding of human rights discourses and practices in a diverse world.²

International Human Rights Internship Program: Contextual Overview

Since 1996, the International Human Rights Internship Program has been offering opportunities to law students to acquire practical experience working with human rights organizations in Canada and abroad. The Centre for Human Rights and Legal Pluralism (CHRLP) assumed the responsibility of steering the programme in 2005. The Centre aims to serve both the academic and wider community “with a locus of intellectual and physical resources for engaging critically with how law impacts upon some of the compelling social problems of our modern era”.³ Part of this mission includes “enrich[ing] the nexus of scholarship and teaching by engaging undergraduate and graduate students in human rights research projects, human rights internships, international clerkships and advanced scholarship”.⁴ The Centre’s commitment to critically engaging with plural human rights discourses and practice has influenced the evolution and expansion of the IHRIP.

The International Human Rights Internship Program opens applications in the fall of every academic year to McGill law students (across all years of study of the undergraduate Bachelor of Civil Law/Juris Doctor degree) for a full-time 12-week experiential placement to be conducted in the summer following. These internships are conducted with various partner organisations that seek to promote and protect human rights including non-governmental organisations, courts, and other public institutions.⁵ These organisations are located locally and globally – from organisations in Montreal such as the Commission des droits de la personne et des droits de la jeunesse to others across the world such as the Inter-American Court of Human Rights in Costa Rica, UNHCR in Tunisia, and Ateneo Human Rights Centre in the Philippines.⁶ Once students are competitively selected (the intricacies of this selection process will be discussed in further detail later in this paper), they are onboarded to prepare for their placement including requiring the completion of web modules for cultural sensitivity and health and safety best practices for international travel. Students are provided some funding for a stipend to support financial costs

² Due to structural, research, and confidentiality constraints, this paper will predominantly focus on students’ experiences and less upon the role of partner organisations and their insights. There are several questions that remain such as how partner organisations are chosen, how they work to promote and/or hinder students’ agency and capabilities. Much of the research accessed to create this paper includes mostly positive experiences with the IHRIP. Recognizing this is the first of its kind of analysis of the program, further research and investigation are called for to develop greater insights about the Capability Approach and program outcomes.

³ See Centre for Human Rights and Legal Pluralism, “Objectives, Mission and History” (2023), online: *McGill* <<https://www.mcgill.ca/humanrights/aboutus>>.

⁴ See Centre for Human Rights and Legal Pluralism, “Objectives, Mission and History” (2023), online: *McGill* <<https://www.mcgill.ca/humanrights/aboutus>>.

⁵ See Centre for Human Rights and Legal Pluralism, “International Human Rights Internships” (2023), online: *McGill* <https://www.mcgill.ca/humanrights/clinical/internships>

⁶ See Centre for Human Rights and Legal Pluralism, “Current Internships” (2023), online: *McGill* <https://www.mcgill.ca/humanrights/clinical/internships/current-internships>. NB: Students can also find their own internship placements independently with the help of the CHRLP or otherwise. Some of these placements have included positions with the UN Khmer Rouge Tribunals, the International Centre for Transitional Justice in Cote d’Ivoire, and others See also Centre for Human Rights and Legal Pluralism, “Independent Internships” (2023), online: *McGill* [mcgill.ca/humanrights/clinical/internships/independent-internships](https://www.mcgill.ca/humanrights/clinical/internships/independent-internships).

during their placement but are required to pay the registration fees for the course.⁷ This can be said to impede agency, however, as students may be drawn to other opportunities that may provide better financial gains which may be a necessity for some students depending on their financial needs. The funding for the program is derived from donors to the Centre and program.⁸ Students are also to complete two blogs by the end of their placement to be posted on the CHRLP's website, for students to reflect upon their experiences as they carry out their assignments.

Upon completion of the field placement, students must complete the 3-credit companion course during the academic year. This course, 'Critical Engagements with Human Rights' examines "theoretical, ethical and strategic issues related to human rights discourse, advocacy and activism, and critically examines fact finding, monitoring and reporting, litigation, grass roots mobilization and media engagement in advancing human rights".⁹ The seminar includes: mandatory and supplementary readings to be completed for each class which are debated amongst students, a group presentation in which students who have completed field placements in similar fields of human rights deliver an interactive class on a particular theme (discrimination, disability rights, restorative justice are some examples of the themes), and an 8-10 000 word term paper critically examining a human rights issue explored during students' internships.¹⁰

One of the authors who is the Director of the Programme since 2011 is greatly influenced by the work of Amartya Sen on Capabilities theory. The influence of Capabilities philosophy has permeated through the programmatic and pedagogical dimensions of IHRIP. The conception of functionings and agency in the Capability Approach may lend an understanding of the enabling environment fostered by the programme, which may be perceived through agentic behaviour performed by students throughout their interactions in the Programme.

Capability Approach and Agency

Amartya Sen conceived the 'Capability Approach' in the 1990s to push understandings of international development beyond narrow confines of economic development towards a more holistic human development paradigm. He defines 'capability' as "the opportunity to achieve valuable combinations of human functioning – what a person is able to do or to be".¹¹ This element of functioning is just one of three key prongs of the capability approach; Alkire and Deneulin write that capabilities address an individual's functionings defined as "being or doing what people value and have reason to value".¹² Capabilities is understood as the freedom to pursue desirable

⁷ See Centre for Human Rights and Legal Pluralism, "International Human Rights Internships" (2023), online: McGill <https://www.mcgill.ca/humanrights/clinical/internships> [see funding]

⁸ See Centre for Human Rights and Legal Pluralism, "International Human Rights Internships" (2023), online: McGill <https://www.mcgill.ca/humanrights/clinical/internships> [see funding]

⁹ See Enrolment Services, "LAWG505 Critical Engagements with Human Rights" (2023) online: McGill <<https://www.mcgill.ca/study/2022-2023/courses/lawg-505#:~:text=It%20explores%20theoretical%2C%20ethical%20and,engagement%20in%20advancing%20human%20Rights>>.

¹⁰ See generally Professor Nandini Ramanujam, *Intl. Human Rights Internships Seminar: Critical Engagements with Human Rights* syllabus (Faculty of Law, 2021).

¹¹ See Amartya Sen, "Human Rights and Capabilities" (2005) *J Hum Dev* 6:2 151 at 153.

¹² See Sabina Alkire & Séverine Deneulin. "Chapter 2: Introducing the Human Development and Capability Approach" in Sabina Alkire & Séverine Deneulin, eds, *An Introduction to Human Development and Capability Approach* (London: IDRC) 22 at 32.

opportunities which allow for the enjoyment of a life one values .¹³ Finally, agency is a critical element of the Capability Approach as it constitutes a “person’s ability to pursue and realize goals one values”.¹⁴ Martha Nussbaum attempts to typify capabilities into central categories: “life, bodily health, bodily integrity, sense, imagination, thought, emotions, practical reason, affiliation, friendship, respect, other species, play, control over one’s environment, political, and material” capabilities.¹⁵ Although these are non-exhaustive and somewhat contested, they provide a foundation for understanding capabilities and their imagined applications in diverse social settings. One of the most compelling elements of this approach is that it recognizes human diversity in terms of differing functionings and capabilities. According to this approach, an enabling environment ought to empower the agency of individuals with diverse abilities and in pursuit of different goals.

Sen distinguishes capabilities from functionings through physical and mental heterogeneities, variations in non-personal resources, and environmental diversities, among others.¹⁶ Furthermore, he argues that “there is no difference *as far as the space is concerned* between focusing on functionings *or* on capabilities. A functioning combination is a *point* in such a space, whereas capability is a *set* of such points”.¹⁷ Individuals have different starting positions in their functionings, but this should not prevent them from realizing their goals and what they value – their agency must be enhanced to render them capable of achieving and enjoying these objectives. This normative argument derives from the imperfect world capabilities are situated within. This provides a springboard for many applications of the Capability Approach in tandem with a Human Rights- Based approach – which applies international and domestic human rights norms to normatively advance equity and justice in the promotion of individual capabilities; it consequently nuances agency by putting it in dialogue with structure – it forces a reckoning with institutional and systemic change in favour of ameliorating human rights as prerequisites to empowering individual agency and capabilities.¹⁸ At the core of the Capabilities Approach is ethical individualism, in which each individual is responsible for their actions.¹⁹ However ethical individualism can flourish only when supported by institutional structures and processes.

In Focus: Opportunity and Process in Freedom and Human Rights

¹³ See Sabina Alkire & Séverine Deneulin. “Chapter 2: Introducing the Human Development and Capability Approach” in Sabina Alkire & Séverine Deneulin, eds, *An Introduction to Human Development and Capability Approach* (London: IDRC) 22.

¹⁴ See Sabina Alkire & Séverine Deneulin. “Chapter 2: Introducing the Human Development and Capability Approach” in Sabina Alkire & Séverine Deneulin, eds, *An Introduction to Human Development and Capability Approach* (London: IDRC) 22 at 22.

¹⁵ See Martha C Nussbaum, “Capabilities and human rights” (1997) *Fordham L Rev* 66, 273 at 287-288.

¹⁶ See Amartya Sen, “Human rights and capabilities” (2005) *J Hum Dev* 6:2 151 at 154.

¹⁷ See Sabina Alkire & Séverine Deneulin. “Chapter 2: Introducing the Human Development and Capability Approach” in Sabina Alkire & Séverine Deneulin, eds, *An Introduction to Human Development and Capability Approach* (London: IDRC) 22 at 37.

¹⁸ See generally, Peter Uvin, “From the right to development to the rights-based approach: how ‘human rights’ entered development” (2007) *Dev in Practice* 17:4-5 597.

¹⁹ See Sabina Alkire & Séverine Deneulin. “Chapter 2: Introducing the Human Development and Capability Approach” in Sabina Alkire & Séverine Deneulin, eds, *An Introduction to Human Development and Capability Approach* (London: IDRC) 22 at 35.

Indeed, Sen writes that for any theory of human rights that considers the Capability Approach, *opportunity* and *process* aspects of *freedom* are critical. These elements of opportunity and process will be core to understanding the notion of agency in this paper. Sen writes that opportunity, when read with the definition of capabilities, draws one's attention away from an individual's existing means as they may vary per differing socioeconomic status, (dis)ability, etc. and instead focus on the actual opportunities one has to realize one's goals and values.²⁰ For example, "freedom in the form of capability, concentrates on the *opportunity* to achieve combinations of functionings" such as being well-nourished or in good health; one does not have a general freedom to good health.²¹

Process as a component of freedom, conversely, operates in a way that explicates societal structures and institutions and how they may impose on an individual's agency and access to opportunities. Alkire and Deneulin explain that the process aspect of freedom pays attention to "the freedom involved in the process itself".²² Sen outlines examples such as curfews and due process in justice systems under the rule of law. He shares that the capability approach cannot "possibly deal adequately with the process aspect of freedom, since capabilities are characteristics of individual advantages, and they fall short of telling us enough about the fairness or equity of the processes involved, or about the freedom of citizens to invoke and utilize procedures that are equitable".²³ These two elements of opportunity and process are fundamental to the agency individuals are able to exercise within an investigation of the Capability Approach.

Capability Approach in Pedagogy

Although the Capability Approach was envisioned as an indicator for human development in poverty and economic analyses, Sen writes that the goals of the Capability Approach are flexible.²⁴ It can be explored as a metric. In this vein, it can apply to how one examines pedagogy and the advancement of agency in these spaces to promulgate human rights. This provides an apt paradigm from which to analyse the IHRIP at McGill.

The Capability Approach has been examined within theories of education and particularly social justice education. Unterhalter and Walker write that the Capability Approach provides a lens from which to rethink not only justice in education but broader societal dilemmas from gender equality to economic redistribution that also bear on education.²⁵ Similarly, Walker in another text articulates that the Capability Approach in curriculum design that centers on human development allows a "richer perspective on what it means to be human and hence on the kinds of graduates

²⁰ See Amartya Sen, "Elements of a theory of human rights" (2017) in Amartya Sen, *Justice and the Capabilities Approach*, 1st (London: Routledge, 2017) 221 at 238.

²¹ See Amartya Sen, "Elements of a theory of human rights" (2017) in Amartya Sen, *Justice and the Capabilities Approach*, 1st (London: Routledge, 2017) 221 at 240.

²² See Sabina Alkire & Séverine Deneulin. "Chapter 2: Introducing the Human Development and Capability Approach" in Sabina Alkire & Séverine Deneulin, eds, *An Introduction to Human Development and Capability Approach* (London: IDRC) 22 at 37.

²³ See Amartya Sen, "Elements of a theory of human rights" (2017) in Amartya Sen, *Justice and the Capabilities Approach*, 1st (London: Routledge, 2017) 221 at 242.

²⁴ See Amartya Sen, "Human rights and capabilities" (2005) *J Hum Dev* 6:2 151 at 159

²⁵ See Elaine Unterhalter and Melanie Walker, "Conclusion: Capabilities, Social Justice, and Education" in Elaine Unterhalter & Melanie Walker, eds, *Amartya Sen's Capability Approach and Social Justice in Education* (New York: Palgrave MacMillan, 2007) 239.

universities should educate”.²⁶ This focus on curriculum allows for different aspects of capabilities to be augmented in their fostering through key tools such as critical inquiry and discussion and goals that are ‘other-regarding’ per Sen’s conception of capabilities as central to human obligation to support all.²⁷ Wood and Deprez also focus on the Capability Approach in curriculum-building by acknowledging its marriage with other critical approaches to pedagogy -- including feminist and democratic paradigms – to ultimately conclude that the Capability Approach to education can be “a powerful antidote to disturbing and dehumanizing past conditions, present realities, and current trends in education”.²⁸ These trends are specifically in relation to the fundamental nature of education as taking place in institutions. They write:

educational institutions, like most other institutions, are steeped in inequities, competing values, and dehumanizing forces endemic to contemporary cultures. Current trends toward commodification, quantification, standardization, and globalization encourage marketplace aims for education, suffocating competing aims like personal and moral development and democratic citizenship.

The Capability Approach, in their view, provides greater critical thinking and engagement in the face of these inequities. For example, “Because [the Capability Approach] demands a focus on each student becoming increasingly able to be and to do what they have reason to value”, this resulted in greater reflective discussion and deliberate dialogue about competing values and social power relations better equipping students to understand their own agency while empowering them to share their views and beliefs.²⁹ Thus, this approach has a multitude of applications.

It is also important to consider these applications across global contexts and intersectional identities. Unterhalter examines the Capability Approach in addressing gendered education in South Africa. With over 56% of those living with HIV/AIDS in South Africa being women, younger girls are at high risk, while also facing high rates of sexual violence in schools from teachers and pupils.³⁰ The institutions in which education is housed can diminish the enhancement of agency, freedom, and capability if they enact trauma and violence.³¹ Process elements of freedom in creating safe institutions can be key to enhancing capabilities. In contrast, Reindal writes that the Capability Approach provides an ethical framework for inclusive education for those with (dis)abilities as “At the heart of the capabilities approach is equal respect for dignity”³² which is critical for recognising young people with (dis)abilities as capable contributors with unique experiences worthy of respect, as opposed to “an asset to be traded off for the sake of

²⁶ See Melanie Walker, “Universities and a human development ethics: A capabilities approach to curriculum” (2012) *Eur J Ed* 47:3, 448.

²⁷ See Melanie Walker, “Universities and a human development ethics: A capabilities approach to curriculum” (2012) *Eur J Ed* 47:3, 448.

²⁸ See Diane Wood & Luisa S Deprez, “Teaching for Human Well-being: Curricular Implications for the Capability Approach” (2012) *J Hum Dev & Capabilities* 13:3, 471 at 472.

²⁹ See Diane Wood & Luisa S Deprez, “Teaching for Human Well-being: Curricular Implications for the Capability Approach” (2012) *J Hum Dev & Capabilities* 13:3, 471 at 477-8

³⁰ See Elaine Unterhalter, “The capabilities approach and gendered education: An examination of South African complexities” (2003) *Theory & Res Ed* 1:1, 7.

³¹ See Elaine Unterhalter, “The capabilities approach and gendered education: An examination of South African complexities” (2003) *Theory & Res Ed* 1:1, 7.

³² See Solveig M Reindal, “Discussing inclusive education: an inquiry into different interpretations and a search for ethical aspects of inclusion using the capabilities approach” (2016) *Eur J Sp Needs Ed* 31:1, 1 at 8.

economic growth”.³³ The Capability Approach, when applied to different contexts, can have different drawbacks and advantages. How the approach manifests through the IHRIP, and what impacts it has, will formulate the basis of this next section of the paper.

IHRIP and Capabilities: Prioritising Functionings at Every Step

Selection Process

Internships are advertised in the fall. This application procedure is rooted in values of enhancing freedom in process and opportunity for students. One way this is sought to be achieved is through transparency. Former interns volunteer themselves as a resource to new applicants creating a support structure for students to make informed decisions about their potential participation. Interested students are provided application packages which outline essential and desired requirements of students for each human rights internship placement. For example, the Legal Clinic on Human Rights and Disability in Lima, Peru requires Spanish language skills.³⁴ How applications are evaluated is also listed in the application through a series of 5 factors: *Demonstration of initiative, dynamism, resilience, and ability to work independently; Clear interest in engaging with human rights; Relevant paid or unpaid work experience; Excellent writing and communication skills; and other relevant extra-curricular activities.* Students can thus tailor their applications to highlight their fulfilment of these considerations. It is important to note that these factors are considered equally while simultaneously balancing concerns of equity.

Process freedom is also attempted to be ascertained through creating a uniform application. With a strict word limit, students are asked to answer short essay questions with their application questioning what human rights means to them, why they are applying, what skills they would like to achieve, how they may respond to challenges on the job, and investigating their understanding of human rights across different cultural and global contexts.³⁵ Students are invited to information sessions to ask questions, are connected with alumni upon request, and have access to internship blogs to learn more about past student experiences. Each year two or three former interns work as student coordinators to support the programme Director in running the programme and provide insights to the Director and applicants.

The selection process pays particular attention to circumstances which may have prevented the applicant from gaining relevant experiences to be competitive in the process. (ex. financial difficulties, rural community background, disability etc). Only incomplete or unfocused applications are eliminated in the first round. All other applicants are invited to a short in-person interview which allows the selection committee to gain a more holistic understanding of the candidate’s personal trajectory, their aspirations and ambitions as well as their fears and limits. They are interviewed by diverse panelists including alumni of the IHRIP, the Program Director, and other human rights professional. Students are asked to express their preferences so they can

³³ See Solveig M Reindal, “Discussing inclusive education: an inquiry into different interpretations and a search for ethical aspects of inclusion using the capabilities approach” (2016) *Eur J Sp Needs Ed* 31:1, 1 at 7.

³⁴ See Centre for Human Rights and Legal Pluralism, “International Human Rights Internships Program Application Package 2022-2023” (2022) McGill Centre for Human Rights and Legal Pluralism.

³⁵ See Centre for Human Rights and Legal Pluralism, “International Human Rights Internships Program Application Package 2022-2023” (2022) McGill Centre for Human Rights and Legal Pluralism

be matched with a partner organisation that meets their interests as well as their abilities. Many students are placed to existing organisational partners through this process. Many others who show promise and potential but are interested in working on an area of human rights which fall outside partner organizations' purview are assisted by the CHRLP to locate placements with suitable organizations. Evident within this approach is a valuing of students' individual values and functionings, respecting the diversity of these 'starting points' such that they can act as a springboard for enhancing students' capabilities as future jurists. Every step is conceived with the aim of supporting students' agentic decision-making towards their goal of acquiring hands-on human rights experience.

Internships: Human Rights Work in Diverse Settings

Students work around the world for different organisations ranging from nongovernmental organisations, regional courts, government entities, human rights commissions, indigenous communities, and grassroots human rights organizations. The work conducted by students is incredibly varied. Tasks can range from analyses of human rights law in different contexts including domestic, regional, and international human rights law; human rights advocacy; human rights in crafting government policy; and much more. Students feel empowered in taking on new challenges and develop a deeper understanding of the agenda and strategy of their host organization as well as critical perspectives on the complexities of human rights work.

There is significant skill acquisition and skill enhancement in these different organisations. For example, Hannah Reardon writes of the revelation in crafting Gladue Reports for the Cree Nation Department of Justice and Correctional Services that “many of the most severe instances of colonial violence in Eeyou Istchee have occurred within the past century and are the direct result of malicious policy initiatives spearheaded by the federal and provincial governments...it flies directly in the face of the false... belief of many Canadians that the colonial oppression of Indigenous peoples occurred in a distant past and under a different political regime”.³⁶ This understanding of history acts in contrast from dated but standard education in Canada, and was only acquired on the job due to the research requirements of the human rights work necessary for Gladue Reports. These insights can be critical to situating human rights in the specific discourse of truth and reconciliation with Indigenous communities in Canada. These sensitivities and background knowledge enhance the capabilities of young jurists. Similarly, Renée Lehman writes of the importance Avocats sans frontières Canada placed upon “principles of subsidiarity and complementarity” during her work drafting the amicus curiae for court proceedings supporting the families of human rights defenders in Colombia.³⁷ Lehman learned that the “voices and input of local actors are not merely a factor which must be consulted and considered, but that positive long-term relationships with local actors are crucial to both the existence and success of any project involving western organizations operating abroad”.³⁸ This strategizing of human rights work to collaborate with other actors is borne of relational experience acquired, again, only from

³⁶ See Hannah Reardon, “Dismantling ‘Bureaucratic Colonialism’ (8 August 2022) online: *McGill Human Rights Internship Program Blog* <<https://humanrightsinterns.blogs.mcgill.ca/2022/08/6634/>>.

³⁷ See René Lehman, “Subsidiarity and Complementarity: Guiding Principles in International Human Rights Work” (1 August, 2022) online: *McGill Human Rights Internship Blog* <<https://humanrightsinterns.blogs.mcgill.ca/2022/08/6588/>>.

³⁸ See René Lehman, “Subsidiarity and Complementarity: Guiding Principles in International Human Rights Work” (1 August, 2022) online: *McGill Human Rights Internship Blog*

experiential learning. Students are provided real avenues to apply human rights expertise and knowledge acquired on the job to further the work of the organisations they support. Moreover, students wield their agency in opportunities and processes that allow for their critical thinking of how best to conceptualize and operationalize human rights knowledge to promote social justice while working in large networks of stakeholders.

The efficacy of law, and how human rights and advocacy can be strategized is commonly explored within human rights internship work. Many students have questioned the value of international law when the legal systems that govern it are riddled with accountability gaps and contradictions of state sovereignty as barriers to global cooperation. Poonam Sandhu, during her experience at Human Rights Watch, writes that budgetary constraints with the International Criminal Court and state compliance with these provisions can pose barriers to ensuring justice for survivors of international crime. She argues that domestic criminal and human rights legislation can be key tools, as determined through her research attempting to strategize around gaps in accountability.³⁹ Noémie Richard also writes of her experience with the Kenya-Canada Remote Legal Aid Project, that even with robust laws, absent a culture of human rights or robust rule of law, corruption in local institutions through forms of bribery prevent the protection of rural farmers' property rights.⁴⁰ She argues that making legal information accessible enhances local communities' rights-based knowledge to better protect themselves when met with corruption.⁴¹ A thread of strategizing around the failures of human rights law across international and domestic settings presents itself through the Capability Approach. Students applied textbook law to real-world situations only to realize its inadequacy. Applying themselves to question how creatively one can circumvent these institutional pitfalls promotes students' agency to think originally and explore creative solutions to real world problems in a collaborative manner. This is a clear example of the manifestation of ethical individualism which is concerned for the common good. Students are provided the opportunity to understand the different innovations and changes taking place in fast-paced justice-seeking workplaces, to which they can contribute through their own reflexive thoughts and ideas borne of the work they conduct.

Seminar: Companion Course

Students complete a three-credit course upon completion of their summer internships the following fall. The syllabus explains that the overarching goal of this course is "To link experiences and learning from the field/summer placement to formal learning in the classroom".⁴² Among several other learning objectives, the course seeks to ensure students "learn new strategies to communicate human rights issues" and "reassess one's understanding of the law, institutions

³⁹ See Poonam Sandhu, "International Criminal Justice, what's it good for?" (15 September, 2022) online: *McGill Human Rights Internship Program Blog* < <https://humanrightinterns.blogs.mcgill.ca/2022/09/6934/>>.

⁴⁰ See Noémie Richard, "Knowledge is Power: How Access to legal Information Can Protect Human Rights (19 August, 2022) online: *McGill Human Rights Internship Program* <<https://humanrightinterns.blogs.mcgill.ca/2022/08/6676/>>.

⁴¹ See Noémie Richard, "Knowledge is Power: How Access to legal Information Can Protect Human Rights (19 August, 2022) online: *McGill Human Rights Internship Program* <<https://humanrightinterns.blogs.mcgill.ca/2022/08/6676/>>.

⁴² See Professor Nandini Ramanujam, *Intl. Human Rights Internships Seminar: Critical Engagements with Human Rights* syllabus (Faculty of Law, 2021).

and justice”.⁴³ The premise of the course situates the expertise and knowledge acquired through the experiential internship and previous life experience as critical to learning. Collaborative and peer-supported learning is one of the key pedagogical principles of the course.

For the first half of the semester, meeting twice a week, students discuss and engage in interactive activities that apply lessons, theories, and questions posed in readings. These materials are interdisciplinary ranging from texts in political science, economics, jurisprudence, and more.⁴⁴ They are thematically grouped; for example, Sen’s Capability Approach itself is discussed in relation to economic justice and issues of global economic inequality. Pertinent global case studies which are adjusted yearly, are also examined for students to apply theory to ground realities.⁴⁵ The instructor facilitates critical conversations which allow students to link their field and lived experiences to the course materials. Past students have described the course instructor, Professor Nandini Ramanujam’s approach as creating “a collegial, enriching, dynamic and always encouraging – yet sober – environment for students”.⁴⁶

The Capability Approach and students’ agency is evident in this methodology as individuals approach the discussion through their different functionings and experiences (internships and other roles) shaping class discussion where they are empowered to share their ideas respectfully and deliberatively. Provided with similar opportunities of human rights internships and the same mandatory readings to review for class, students are provided common ground from which to share their ideas, questions, values, and counterarguments. There is yet space for challenge and debate as students bring their own unique experiences and identities to the discourse. Indeed, as Unterhalter and Walker propose the Capability Approach as a means in education to illuminate thinking about questions of justice, the seminar does just this through engaging students to share their own substantive ideas and knowledge and debating competing ideas of what justice may mean for different communities, positioning oneself in relation to their classmates, the communities they have served in their human rights internships, and as individuals with unique experiences.

The diversity of students is also noteworthy. Applicants to the programme range from 19 years old students who entre the Faculty straight from CEGEP to individuals with a doctorate in a social science discipline. A small number of LLM students can also take the course, further diversifying the demographic of students and experiences. This pedagogical approach fosters an enabling environment for the expression of diverse voices and perspectives. Each student has their unique experience which levels the playing field in the class and creates an inclusive environment for learning while maximizing their potential and benefit from the experiential learning opportunity.

⁴³ See Professor Nandini Ramanujam, *Intl. Human Rights Internships Seminar: Critical Engagements with Human Rights* syllabus (Faculty of Law, 2021).

⁴⁴ See generally Professor Nandini Ramanujam, *Intl. Human Rights Internships Seminar: Critical Engagements with Human Rights* syllabus (Faculty of Law, 2021).

⁴⁵ Past cases include examining the Open Society Justice Initiative for questioning strategic litigation of human rights and the role of Hybrid Tribunals in advancing human rights for the hard to reach. See generally Professor Nandini Ramanujam, *Intl. Human Rights Internships Seminar: Critical Engagements with Human Rights* syllabus (Faculty of Law, 2021).

⁴⁶ See Centre for Human Rights and Legal Pluralism, “CHRLP Collaborator Testimonials” (2022) at 21 (pdf): *McGill University*.

After a few weeks, students are grouped together to teach different themes relating to human rights. Students are selected to present together based off their field placement experience so that those students who completed similar work can converse with each other about their experiences and deliver a lecture they deem fit on a particular human rights issue. There are general guidelines for designing a class and students are provided core readings, but the students are encouraged to exercise originality and integrate their field experience in their presentation. The Professor meets with the student group to go over the expectations of the class and shares materials developed for that class theme by the previous cohorts of students. This approach to supporting the students in designing and leading a class equips them to exercise agency in a classroom setting. The class presentation includes insights from scholarly literature and often strives to explore solutions to improve human rights puzzles.

The Capability Approach can be assessed in this model as empowering students to make use of the knowledge and skills acquired during their field placements and share them with their peers. It sees them as more than students, but teachers as well. This echoes the model Wood and Deprez promote of the Capability Approach in which students are asked to reflect upon their own range of values and how this connects with social power relations. This discourse empowers students to question their functioning and agency in relation to opportunity and process aspects in ideas of freedom (and limitations therein) to conceptualize how human rights manifest in their internship organisations' work and their own lives. This process also allows students to understand the notion of relational agency vis a vis the peers who they are teaching. This dialogical and collaborative process of teaching and learning nudges students to step away from the simplistic binaries of universalist/relativist human rights and focus on the flourishing of human agency in diverse societies.

The Jewel in the Crown:

The crown jewel of students' experiences manifests in their deliverable of an 8000-to-10000-word term paper written on a human rights issue that relates to their internship experience. Students have complete freedom to choose a topic alongside applied theoretical and methodological frameworks. Often the topic is informed by a concern or dilemma the student may have encountered during their field placements. As a result, students problematize questions of justice in human rights work, and often devise and propose solutions and lessons for human rights moving forward. The process of writing is supported both by the instructor. A peer review process is also built into the syllabus to support different stages of the writing process including 'drafting' and 'review' classes.

These papers can be published in the Centre for Human Rights and Legal Pluralism's Working Paper Series, allowing academics and the public free access to these thoughts as well. Irrespective of the grade received, each author is encouraged to publish their paper which demonstrates the ethos of celebrating diverse abilities and outcomes. This access is key to positioning these future jurists as critical thinkers valued in their analytical insights. Students can also continue to work on these papers with feedback from their final grade to publish with journals

and law reviews as several have including with the *Revue québécoise de droit international*, *Windsor Yearbook of Access to Justice*, and the *Oxford Journal of Human Rights Practice*.⁴⁷

The term papers provide key insights into opportunities provided for students to critically engage with, a plural landscape of human rights puzzles presented during their internships. In these diverse global settings, human rights can be conceptualized and applied with nuance to the goals and cultures from which the missions of each organisation are situated within. That is, the normative promulgation of human rights can look different depending on where one exists. In this vein, students are encouraged to critically assess competing conceptions of human rights, NGO practice, and how these interact and manifest. Take, for example, issues in gender justice. Feminism, although some would argue can be easily defined as simply equality and justice for gender minorities, when applied in different cultures can spark debates about how such a vision may unfold practically. Alexandre Recher, in their final term paper from their internship, writes about the relationship between “harmful cultural practices and what it reveals about the underlying relationship between women’s rights and culture”.⁴⁸ They argue that “the universalist aspirations of” CEDAW “obscures assumptions grounded in one geographically specific ideology – Western liberalism – to the exclusion of others.”⁴⁹ The paper attempts to reconceptualize the discourse around harmful cultural practices to one that “recognizes culture as a medium to facilitate gender justice aspirations in a manner that centralizes the role of women in shaping priorities and actions towards achieving those goals within their communities”.⁵⁰ On the flip side, Julia Green explains the advantages and disadvantages of faith-based organisations in sub-Saharan Africa in both undermining and advancing LGBTQ human rights.⁵¹ Green writes in a blog post about her experience, “I know that the lessons I learned in Mombasa have helped me to better understand the many human rights challenges that persist around the world. I came away with an understanding of gender inequality, poverty, and corruption that I simply could not have gotten in a classroom or from a book.”⁵² Stripped away from the privileged academic environment, future jurists are faced with competing understandings of human rights and must exercise their agency in

⁴⁷ See Centre for Human Rights and Legal Pluralism, “CHRLP Collaborator Testimonials” (2022) at 19 (pdf): *McGill University*; David Matyas, “Short Circuit: A Failing Technology for Administering Justice in Nunavut” (2018) *Windsor YB Access Just* 35, 379; Riley Klassen, “Doing Good and Feeling Good: A Critical Analysis of Human Rights Research” (2022) *J Hum Rts Prac* 14:2 513.

⁴⁸ See Alexandre Recher, “What’s the Harm? CEDAW and the Relationship Between Human Rights and Culture” (2021) McGill Centre for Human Rights and Legal Pluralism Working Paper 10:1 Summer 2021 online (pdf): <https://www.mcgill.ca/humanrights/files/humanrights/alex_recher_-_whats_the_harm_cedaw_and_the_relationship_between_hr_and_culture.pdf>.

⁴⁹ See Alexandre Recher, “What’s the Harm? CEDAW and the Relationship Between Human Rights and Culture” (2021) McGill Centre for Human Rights and Legal Pluralism Working Paper 10:1 Summer 2021 at 4 online (pdf): <https://www.mcgill.ca/humanrights/files/humanrights/alex_recher_-_whats_the_harm_cedaw_and_the_relationship_between_hr_and_culture.pdf>.

⁵⁰ See Alexandre Recher, “What’s the Harm? CEDAW and the Relationship Between Human Rights and Culture” (2021) McGill Centre for Human Rights and Legal Pluralism Working Paper 10:1 Summer 2021 at 8, online (pdf): <https://www.mcgill.ca/humanrights/files/humanrights/alex_recher_-_whats_the_harm_cedaw_and_the_relationship_between_hr_and_culture.pdf>.

⁵¹ See Julia Green, “Faith-Based Organizations in Sub-Saharan Africa: Negatives, Positives, and Recommendations for Effective Promotion of Human Rights” (2020) McGill Centre for Human Rights and Legal Pluralism Working Paper 8:1 Fall 2020 online(pdf) <https://www.mcgill.ca/humanrights/files/humanrights/green_julia_ihrip_v8_2020.pdf>.

⁵² See Julia Green, “Mombasa: Sun, Sea, and a Study of Sexual Violence” (14 August, 2019) online: *McGill Human Rights Internship Program Blog* <<https://humanrightsinterns.blogs.mcgill.ca/2019/08/5246/>>.

relation to the human rights structures in the location of their internship. Embracing the Capability Approach-informed principles of IHRIP, students exercise their agency to critically think about ideas of justice and engage with contentious debates of competing rights and norms. Student research papers reflect this nuanced understanding of a pluralistic landscape of human rights discourses and practices. Flourishment of individuals living in diverse contexts with diverse capabilities is at the heart of the Capability Approach. This is the point of departure for all research papers written in the CEHR seminar. Ultimately these papers further students' capabilities through critical thinking, reasoning, and reflection upon their personal and professional experiences in conjunction with hard research skills employed in writing the paper.

Conclusion

The Capabilities Approach-informed pedagogy of IHRIP supports students to gain a deeper understanding about the power and limits of the law in advancing human rights. It also helps students gain insights into context-specific particularities which shape human rights discourses and human experiences. Most importantly the Programme empowers and supports students to exercise their agency in exploring feasible and innovative approaches to address the enforceability and accountability gaps preventing marginalized populations from enjoying fundamental human rights. Opportunities and exposure that foster a deeper understanding of challenges and ethical quandaries of human rights work contribute to a well-rounded legal education. Irrespective of final career choices, the skills and insights acquired through the IHRIP experience informs the work of its alumni.