Revising European governance toward capability and human rights-based benchmarking and allowing voices of stakeholders to be heard in social investment

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Introduction

The outlook for our future is not brilliant - we are facing threats of which we were not truly aware at the beginning of our RE-InVEST project, in particular the warming of our planet and all its consequences on the lives and well-being of Europeans, not to mention humanity. It becomes evident that social and the environmental issues go hand in hand. Environmental changes have had and will continue to have dramatic consequences for the quality of life, hence for social conditions. Poor people are too often deprived of the means and security in their daily lives to take care of their environment. They also work in poor social and environmental conditions. Billions and billions must be invested in well designed action and financed according to criteria for fighting global warning and supporting social conditions in relation with human development. This action must no longer separate environmental issues from social issues, nor focus on environmental damage while ignoring measures for improvement. A vital commitment to massive investments in the social and the environmental domains, and their interdependence, is the chance for the European Union to come out of the current crisis on top and to implement a new model for the economy and society. We hesitate to write 'would have been'. In any case this is our only chance, and it is not too late. The vision outlined in this Report is much more modest, a timid and small opening towards our less-than-brilliant future. It is worth noting that we face vital crises for which Europe is unprepared, and in which social conditions and their close relationship to environmental issues are major components.

This said, in this Report 7.3-7.4 we focus primarily on the existing program of RE-InVEST in its non standard macroeconomic aspects.[1] How can a capability-human rights approach (CHRA) be implemented in a European social policy environment marked by the concept of social impact? This work is macroeconomic in that it addresses the core issue of aggregating from the particular to the global individual, collective and national situations that are, by essence, heterogeneous and not comparable. Macroeconomics and the market work with macro aggregated data. Social investments as conceived by the European institutions are based on standardisation, seeking the simplest way to aggregate situations, indicators, tools and policies and, in the end, individuals themselves. The reason for this is simple: it opens the way for a social investment market. In our analysis, we demonstrate our scepticism and propose another pathway based on CHRA, that we call 'investing in the social'. Would it be possible to introduce CHRA in the social impact approach? In other terms, is-it possible to mix market and non market logics?

This Report comprises three parts and a conclusion. The first part gives a brief diagnosis of the difficulties that obstruct the European vision of our future.[2] The second part lists four issues that are eligible to a social investment approach, as we envision it. Only the last three issues are discussed here: the social and environmental components of corporate investment; investment in the building of social infrastructures; challenging governance based on social impact by implementing the capability-human rights approach in social investments (the longest one). The third part develops the challenging of the social impact-based approach by the implementing the capability-human rights approach.

1 The close connection between the two issues – governance and voices of stakeholders in social investment – has led us to draft a joint report covering the two together.

2 For a detailed diagnosis based on the history of the European Union readers are referred to Salais R. (2013), *Le viol d'Europe. Enquête sur la disparition d'une idée*, Paris, Presses Universitaires de France.

1. The past that obstructs the European vision

Unfortunately, the EU has largely missed the point on these matters. Its conception had neither long-term vision, nor ambition; it is a short-term, mostly regressive and purely market conception framed in a perspective of austerity and of reducing public expenses. Many national monographs[3] on the provision of social services mention these underlying trends that continue today and speak, not only of investment, but also of disinvestment in the social domain. Textual analysis of the EC Communication[4] 'Towards Social Investment for Growth and Cohesion - including implementing the European Social Fund 2014-2020', only 19 pages long, reveals the obsessional use of seven keywords which have almost nothing to do with social matters, but belong to management and financial domains. They generally function in pairs: 'efficiency' (19 occurrences) and 'effectiveness' (19 occurrences too); 'sustainability', mostly financial (21 occurrences) and 'adequacy' (21 occurrences too, and up to 26 if one counts synonyms); the champion keyword is 'target', in its diverse modalities (28 occurrences, up to 37 if one adds 'conditionality' (9 occurrences)); 'monitoring' (strictly 15 occurrences, much more if one adds all the related notions, such as 'governance', 'steering', 'guidance', 'reporting', 'support').[5]

Although a tension between this obsessional approach and another approach oriented towards human capital development through education, child care and training appears in the text, such a focus on these keywords engenders the feelings that the main orientation that the European authorities suggest for social policies and welfare reforms is regressive: not extending, and even reducing public budgets devoted to social matters by all possible means. There is no trace of expressions such as 'social justice' or 'struggling against inequalities' that would have indicated concerns other than efficiency. The keywords and the entire text trace the proper ways to achieve efficiency, ways that European authorities intend to monitor through political methodologies derived from the Open Method of Coordination (OMC), an application of NPM technologies - 'that has contributed to steering Member States' structural reforms in the areas of social protection and social inclusion',[6] i.e. a mix of governance by quantitative performance and diffusion of best practices among countries.

The attempt to employ the notion of capability in the EC Communication falls short; it reveals that the authors know next to nothing about the capability approach, one source of inspiration for RE-InVEST. 'If a person can temporarily not find work, the focus should be on improving their capabilities with a view to them returning to the labour market. This needs to be done through a targeted approach focused on the individual needs and delivered in the most cost-effective[7] way'.[8]

As we will see below (Part 3), targeting and delivering services in the most cost-effective way is not the right way to develop a capability-human rights approach. For this approach, the priority is <u>social</u> efficiency, not <u>financial</u> efficiency.[9] The latter (financial efficiency) should proceed from the former (social efficiency). The priority is not to minimise the cost, but to build help for people, by starting, not from their 'needs' (a word related to a poverty approach), but from the primary features of their situation, their effective freedom to choose and the conversion factors that impede such freedom. It means considering the functionings that

3 See the WP6 Final Reports.
4 Called COM/2013/083 below.
5 For each keyword, we add all the modalities.
6 COM/2013, p. 1.
7 Cost-effective is in French a false cognate. For it means 'the most beneficial in terms of cost'.
8 COM/2013/083, p. 7.
9 Our underlining.

are the most important for the person and how to achieve them. Democratic participation of people in the deliberation on the best choice and the outcome evaluation are also pillars of the capability approach.

One cannot neglect the search for efficiency in social expenditure, as for other types of expenditure. However, how should we judge the effectiveness and efficiency of social services and their evolution, with regards to whom and by whom? For the European Commission, effectiveness and efficiency are evaluated only by the managers of the social schemes; and they are measured by maximising the score and minimising the cost.

In a truly social evaluation (as in a capability and human-rights approach), by contrast, the gain must be appreciated by the real improvement or deterioration of the social situation of the people entering the scheme. Such evaluation is in general not financial. It is made by comparing the situation of the people when entering the scheme and their situation after their exit. And it should implicate the people, who must participate in the evaluation, because their experience needs to be confronted with the administrative data. To avoid biases or premature conclusions, observations should be made some time after the date of exit. Due to the pressure to increase quantitative performance, some people are considered as included as soon as they can be excluded from the register of the institution (such as employment offices or health institutions). But they often return, because it is a false inclusion or health recovery leading to a short and precarious exit only. Such phenomena that artificially increase scores are now well known.

We have written above that the 'main approach' is regressive; there are some exceptions, however, notably regarding investment in social infrastructure. Will the future European Commission and national states do better? Will they try to take an ambitious long-run approach and to resolutely implement it?

It remains that, due to the narrowness of the Agenda 2020, RE-InVEST itself risks to be locked into the regressive conception of social matters that was still predominant when we prepared its research agenda; the most striking feature is the absence of links between social and environmental issues[10] and consequently the lack reflection on what this connection means for the economy.

We have tried to extract ourselves from this negative framework, however and to oppose to it another conception of social matters that is more open to the future: a capability-human rights approach developed from the work of Amartya Sen and other researchers. The aim here is to suggest (this is not the setting for a demonstration) that such an approach has the capacity to develop another conception of social investment and of its governance. Some people criticise the social investment approach for opening the way to funding of social objectives by private capital; they fear it will introduce profitability requirements in the field and distort the very nature of social policies. There are indeed some risks involved, not so much in opening up to the private sector, but rather in governance methods based primarily on performance by numbers. Participation of the people who are supposed to benefit, of stakeholders or a set of actors beyond those of capital and public administration are absent. The involvement and empowerment of people are not the objects of European regulations. And the concept of participation is not expanded to include that of deliberation.

10 It is worth noting that in the Manifesto *Another Europe is possible for a fair distribution. An urgent call for a social, democratic and sustainable Europe* (Alliance to fight poverty, Brussels, 2014) in the preparation of which some of us participated, the authors were well aware of the challenges and the link to make between these issues. We quote: 'A renewed project for Europe has to reconnect its economic priorities to answer social, ecological and climatic challenges… Through strong and innovative politics, the EU can develop the potentialities of each country and region to stimulate an equal standard of living' (p. 8).

2. What domains are eligible for a social investment approach?

RE-InVEST has invested mostly in social policies in the strict sense of social schemes or classical categorised social domains such as social protection as revisited through active labour market policies or social services (such as early childhood education, housing, mental health care). These are important. But one must not forget that they are only part of a series of wider fields eligible to a social investment approach. In our view one should include:

- the link between freedom of movement of people and structural funds investing in vulnerable and under-developed European regions or countries;
- social and environmental components of firms' investment;
- investment in the building of social infrastructure;
- and lastly, reforming existing social policies and schemes and developing new ones in terms of social investment.

2.1 Freedom of movement of people and structural funds

Freedom of movement of people is one of the basic foundations of the European Union. What appears after years of implementation is that outcomes are not always positive, but mainly negative for the economic development of vulnerable regions and countries, especially for eastern European countries. A key illustration is Romania. Since the Enlargement of Europe in 2004, the skilled workforce and educated young people have been leaving Romania and fleeing to developed countries in the EU - France, Britain, Germany, and so on. Romania has been obliged to import workers from India, Pakistan and other Asian countries. What may be good for business is not so good for Europe. It has degraded the European labour marked, pulling it down towards precariousness and low wages. What may be perhaps good for migrant workers and host countries is bad for Romania that has lost key resources for development. What is missing in European policies and funding is the aim to fund investments in these countries, firstly to develop capacities of production and of exportation and the corresponding infrastructure, secondly to target the social objective of developing the capabilities of people and orienting them toward improving their real freedom to stay in their country or not (that is, having enough real opportunities to find a good job and life at home, when compared to western Europe).[11]

2.2 Social and environmental components of firms' investment

Macroeconomic policies and market-based arrangements are in themselves dramatically insufficient. They are not concretely designed to efficiently combat global warming and to reduce the environmental footprint. They have perverse side effects, increasing social inequalities (in the case of 'green' taxes) or simply moving polluting industries to poor countries (in the case of emissions trading schemes).[12] Social damage is

11 See Salais Robert, 2011, 'From social citizenship to social capability in an enlarged economic Europe' in: Lessmann Ortrud, Otto Hans-Uwe, Ziegler Holger (eds.), *Closing the Capabilities Gap. Renegotiating Social Justice for the Young,* Opladen, Barbara Budrich Verlag, 2011, pp. 27-52.

12 Carbon markets could even crash, leading to a major crisis. See the report '50 shades of green: the rise of natural capital markets and sustainable finance' from the Green Finance Observatory.

increased, instead of being prevented from the start thanks to social and environmentally friendly investment. The environmental footprint must be thought in terms of strong sustainability, that is starting from the objective that production should give back at least as much as it extracts from the environment, as opposed to weak sustainability as is mostly the case today in European policies. The perspective should be to implement policies that see nature as a resource, even as a heritage, complementary to and not replaceable by labour and capital. Polices should ensure that resources are renewed at least at the same pace as they are consumed. Labour itself should be thought of in the same terms with the perspective, not only of compensating for its consumption, but also of developing its capabilities. Many specialists now conceive nature and labour in terms of co-development.

The real issue is to work on the sources of social and ecological damage. One source is consumer behaviour; another more significant cause is production and corporate practice in terms of management and investment criteria. Every investment should be specific to each concrete situation from where are issued social and ecological damages. Even if, as it is the case for global warming, the problem is global, carbon emissions are localised in places with specific types of housing, specific industries and technologies, specific people; idem for bad conditions of work and life. To be efficient for reducing ecological and social footprints, investments are to undertake and design in all these places, in taking into account their singularities even if the problem is global. One has to think global, but to act and invest local. This tension between the global and the local underlines the reason why the grand ceremonies at international levels in themselves cannot solve the increasing ecological and social footprints. Research is developing in these areas and should be actively supported by the European Union. The notion of social imprint has to be added to the notion of environmental footprint. Regarding the standard conception of investment by a firm, three big changes are to introduced.

1. Social and ecological footprints for a given firm are not only directly produced by the firm's mode of production, technology and organisation. They also arise from the components, parts, products and energy the firm buys from its suppliers. They also stem from the use of its products (by consumers or downstream firms) and, later, at the end of the life of products, when they are recycled or discarded. The effort made by firms to reduce their footprints is impacted, positively or negatively, by the footprints created by suppliers, customers, users and recyclers. For instance, we know that even if a smartphone may be not so harmful in itself, , the use of rare earth resources and minerals involve costly and hard to undertake upstream extraction and downstream recycling, with both environmental and social harm. The same is true for electric vehicles.
2. Companies, especially multinational corporations, should include all these upstream and down-stream effects and costs in their design and their profitability evaluation, as well as internal impacts generated directly by the firm itself. These effects should be integrated and remedies sought both in terms of prices and in the material design of investment. The calculation and comparison of return on investment should also integrate these effects. It is also likely that the distribution of the expected outcome should include ex ante forecast provisions to finance the required ecological and social investment, to compensate for damage and even to improve the environment and people's capabilities (see, for instance, the proposals made by Rambault (2015)). This needs that all relevant voices should participate with adequate rights to the deliberations around the design of investments and their funding: not only shareholders and management, not only the public administrations, but too workers, local populations, the environment itself with adequate and well-informed representatives. One requires economic democracy.
3. Another key change is that cooperation must be required between firms belonging to the same chain, branch, or cluster. In this cooperation, information, knowledge and research must be shared, and all members will gain in efficiency for reducing social and environmental imprints. In this way social and

environmental gains will spread horizontally to other chains, branches, clusters, territories.[13] European and national policies should create relevant incentives and regulations, and even obligations for firms to enter in such cooperative relationships. Banks, financial funds and all investors should be taught and induced (even subject to regulatory constraints) in order to modify their rules, criteria and practices in these directions. Such cooperation does not impede competition between firms. The main difference with the standard conception is that competition becomes fair, i.e. competition between equals with regards to consideration of environmental and social objectives (close to a common good or the *intérêt general)* decided by the Centre. In the 1980s Jacques Delors had the same preoccupation when implementing social Europe, to put firms in an equal situation and on equal footing regarding respect for basic rights. His preoccupation is evident in the case of workplace health and security in European regulations.

For several years the notion of corporate social responsibility (CSR) has been at the core of EU questions regarding the role of companies in society. Unfortunately, international norms (ISO 26000) and the CCE (2001) do not set any constraining rules for corporate behaviour. They propose only vague and limited guidelines concerning the democratic and emancipatory potential of CSR (Jeamet, 2017; Pesqueux, 2011). If one agrees - and this should not be difficult - on a definition of democracy as equal opportunity to participate in the building of our common destiny and future, a certain form of constraint is required to reintegrate politics and democracy everywhere they should be.

Invoking as mantras ethical behaviour for enterprises or social or green capitalism is no longer sufficient. The path in front of us is narrow. We will have to anticipate the impacts of inevitable climate change that define an environment full of uncertainty. Situations will multiply that will require arbitration between priorities - climate risks, socio-economic risks, long-term degradation of ground, water and air quality), all leading to deterioration of an irreplaceable heritage, nature itself (AcclimaTerra, 2018). We must rapidly build up instruments necessary to develop and consolidate a social and economic model that views respect for the environment and well-being as major macroeconomic imperatives.

This is not a utopian vision. Let us keep in mind the projects of the European Commission in the 1970s when it was working on the status of European corporations; and the use of mixed public-private financing for investment in the 1980s. These can serve as models today.

In the 1970s the European Commission proposed a Directive on the European Company Statute that, in retrospect, tried to take on board these objectives at least partially. At the end of process in 1975 (BEC, 1975), and after significant work by the European Parliament (JOCE, 1974), the most advanced propositions were:

- workers should have equal representation in the Board of Management: one-third of seats for workers' representatives, one-third for shareholders and one-third for representatives of the 'general interest' chosen by common agreement by the other two-thirds The idea was 'to enable [workers] to express their point of view when important economic decisions are made upon matters of company management and on the appointment of members of the Board of Management.';
- that 'decisions concerning the following matters may be made by the Board of Management <u>only with the agreement</u> of the European Works Council' (Article 123).[14]

These matters were (and we quote):

- rules relating to recruitment, promotion, and dismissal of employees;
- implementation of vocational training;
- fixing of terms of remuneration and introduction of new methods of computing remuneration;

13 An excellent historical example of this horizontal cooperative process of very efficient dissemination and innovation is found in the ways German firms coordinated their standards between firms belonging the same chain or branch of production in the1920s (Brady, 1933).

14 BEC - supplement 4/75, 1975 (our emphasis).

- measures relating to industrial safety, health and hygiene;
- introduction and management of social facilities;
- daily time of commencement and termination of work;
- preparation of the holiday schedule.

All of these matters could be addressed through a capability-human rights approach. Freedom in work and workers' evaluation, in particular, could be treated by relying on items a, b, c, and d. It is not difficult to imagine worker representatives on the Board of Management involved in a strategy of alliances with at least some of the representatives of the general interest and, who knows, perhaps with one or two shareholder representatives, alliances that would be favourable to our objectives.

These projects of the European Commission were not accepted and later disappeared from the European social agenda in the course of financial liberalisation. But they remain present as references and resources in the still brief history of the construction of Europe. Furthermore, research continues to explore the field, for instance see work by Favereau and Baudouin (2015), Ferreras (2017) and Robé (2001) on the firm as political entity. These projects should be updated and adapted to the new urgent need to combine environmental and social objectives. It would be necessary, for instance, to include representatives of nature and environmental protection groups and local municipalities, cities and regions among civil society members on corporate boards (at least in the Board of Management). Such partnerships should be instituted at several levels - company, group, country - of firms all the more in case of multinational corporations. It is worth remembering that at the beginning of the 1980s Henk Vredeling, at that time European Commissioner for Social Affairs, proposed a Directive on information, consultation and participation of workers in enterprises belonging to complex structures, such as multinational groups. Among other ideas, the project suggested that workers' representatives belonging to subsidiaries have direct access to the information available at corporate headquarters regardless of location.[15] The least one could do today would be to give access to all relevant information available at all these levels, especially in case of investments choices, to all .One can also imagine that these partners, individually or collectively, would be encouraged to make alternatives choices, or to suggest corrections and improvements; with the condition that such alternatives, corrections or improvements would have to be discussed and, if judged relevant, to be implemented.

2.3 Investment in the building of social infrastructure

Investing in the social domain must not be reduced to a purely productivist logic, nor exclusively focus on the financial returns of social policies. In a capability-human rights approach the goal of investment is to protect people against labour markets contingencies, and not merely only to create a perfectly and immediately mobile and flexible market - the 'ideal' market. We will see below that the European conception has a hard time escaping from this so-called ideal.[16] On the contrary, people should have the capability to master their lives and the real freedom to choose their employment insofar as possible (Morel & Palme, 2016, Report RE-InVEST WP4.1).

The Report of the High-Level Task Force chaired by Romano Prodi and Christian Sautter on Investing in Social Infrastructure in Europe offers proposals, some of which go in this direction, others not. But the right questions are formulated that lead to interesting lines of thinking.

15 See Didry C. and A. Mias, 2005, pp. 75-76. The project was cancelled in 1986 by the new Delors Presidency.

16 Here is an anecdote that expresses this vision that job seekers must accept any task, whatever it is. Once upon a time (17 September 2018), a young man was looking for work as a gardener. By good fortune on this day the gardens of the presidential Elysée Palace were open to the public. The young job seeker met the French President and explained his problem: 'I have sent my résumé and motivation letter to many towns and cities. No one has answered me.' The President's reaction was (our translation): 'If you are ready and motivated, there is work in the hotel business, bars, restaurants, ... or in building construction! Everywhere I go, they all tell me that they are looking for people! All of them! ... You must go. Right now, I could simply cross the street and find a job for you.' (Le Figaro du 18 09 2018, 'macron-a-un-jeune-chomeur-je-traverse-la-rue-je-vous-trouve-du-travail').

Among other things, this report proposes that the greatest attention should be given to:
1. shifting from an underinvestment scenario towards a smart capacitating investment framework with ongoing monitoring of progress at national level;
2. promoting social infrastructure finance, focusing on the regions with the greatest needs;
3. increasing and boosting the pipeline of viable projects for social infrastructure;
4. setting up in the medium-term a public-private fund dedicated to social investment in the EU;
5. more extensive data collection, on infrastructure risk in general and social infrastructure in particular, should be put in place to help regulators in their effort to combine proper risk evaluation and financial stability;
6. establishing a stable and more investment-friendly environment;
7. boosting evidence-based standards for impact investing;
8. strengthening the role of national and regional promotional banks and institutions (NPBIs) in Europe in their cooperation with public authorities and European bodies.

Proposals 3, 5, 6, 7 aim to improve access of the private sector to social bonds and to set standards for impact investing. Expectations are thus turned towards public-private partnership and a 'responsible' finance sector. The problem for us is that, instead of the standardisation of investments offered by Proposals 5 and 7, it would be more efficient to provide European authorities (and national governments) with financial tools for co-construction of investment in the social sector, alongside bottom-up logic. The gain would be to stimulate a process of collective deliberation for each social investment and thereby better evaluate specific features and be more efficient, socially and economically, by preserving the diversity of the frames for evaluation. The basic issues are to preserve diversity in the design of investments and their end purposes, instead of focusing on financial returns; and to ensure the participation of stakeholders, the population and even the environment itself, through appropriate representatives) and give them genuine empowerment, real tools and adequate resources. As Alix and Baudet (2013) have written, one must 'consider that the ground knowledge remains an unavoidable element, complementary to any responsible social policy' (p. 19). The same questions and issues hold for the idea of 'social impact bonds' (SIB).

The Prodi/Sautter Report proposes the creation of a Social Investment Fund. This fund should be provided with the capacity - legal, technical and financial - to issue bonds allowing firms and investors to finance social investment. The targeted objective is to achieve a coherent mix between private and public funding, subsidies and financial instruments.

One may regret that the mandate of the Task Force has not been enlarged to include joint consideration of social and environmentally friendly investments, or at least to explore ways in which the standard tools of social and employment policies could be coordinated and renewed. One should overcome the classical bureaucratic division that artificially separates domains which in reality are intimately interwoven. This division is a waste of time, of effort and money, and ultimately is inefficient in politics.

There has been much rich reflection and innovation around financial instruments - expanding an already broad range of contracts to be used. Inversely the technical and economical expertise of investment has been somewhat neglected, specifically the place and role of expertise in the chain from investment design to the structuring of its funding, especially in public/private financing procedures. Too much confidence is given to purely market mechanisms and to their capacity for selecting 'good' investments. One needs to go back to earlier funding mechanisms that attributed a basic role to technical and economic expertise in allowing or refusing public financing in the case of mixed procedures. This is all the more necessary because the massive investments needed for joint social and environmental challenges are of a new type, and we have little collective experience and learning in this area. Another specific feature of investing in social infrastructure is that, depending on the country, this investment may fall to municipalities, cities or regions and their elected governments. Territorial governments are closely watched by the local population who are eager to have at their disposal modern infrastructures that deliver real and efficient services (health care, education, employment services and so on). It is essential to give prefer a bottom-up approach, while not neglecting the gains obtained by collective experience. Following OECD (2014), partnership with and participation of the population and local authorities must be facilitated, and proximity between citizens and institutions valued (Drancourt 2015).

Many other proposals of investment financial institutions are on the table at the European and national levels. What is lacking is a 'Discourse on Method' that connects financial expertise and technical expertise in order to give priority to the concrete and specific needs and aspirations of the people that live near the proposed social and environmental projects. The starting point for realising the expertise of projects should be to hear their voices and their needs, directly or through representatives. One must build this Discourse on Method from the bottom up, instead of applying a standard top-down model regardless of location, population, type of economic, social and development to favour. The question is to devise the right approach, a process that addresses the specificities of the circumstances, and not oblige people and stakeholders to choose among standard ready-made solutions or generic instruments.

Here too, going back to past experiments can be fecund, even if they have been forgotten by politicians and policy makers who too often reinvent the wheel instead of looking back to work done by their predecessors. In France, from 1983 to 1986, an investment fund - the Fonds Industriel de Modernisation (FIM) - was created by the government. To be efficient and invest in true modernisation of firms (public or private), this fund proposed a strategy for analysing the investment projects -material and immaterial - that applied for funding , a strategy specifically adapted to the diversity of productive organisations, of technologies, of products and of markets in which the enterprises were active.[17] The question was not only to focus on standard quantitative indicators defining best practices for management and investment, but to develop a more in-depth qualitative analysis by asking firms to answer a questionnaire on all these matters. The FIM relied upon a vast network of industrial experts, well implanted in regions and branches, either public agencies (for instance the ANVAR - National Agency for the Research Valorisation - now a subsidiary of the BPI - the Public Bank for Innovation), private consulting firms or independent workers. Parallel to the technical analysis a financial analysis of the firm's accounts was conducted and a financial plan established for the selected firms. The funding was innovative, a mix of public and private funding based on equity loans provided by the state. The resources of these loans came from household savings, that were - and still are - managed by a dedicated public bank, la Caisse des Dépôts et Consignations.[18] Equity loans, in the French case, are repayable loans, but count as equity for the firm. As such they increase the solvability ratio and improve the company's capacity to receive private loans from banks and investment funds. Public equity loans serve to guarantee that private investors are the first to be reimbursed in case of unforeseen hazards.

The financial expertise analysed profit expectations, economic and financial issues in relation with the projected investment (working capital needs, history and distribution of equity shares, sustainability of future debt load, etc.). With the help of a summary report and a data form, the steering committee was able to choose projects to be funded and ensure follow-up.

By including social and environmental issues in such a questionnaire, one can obtain the right questionnaire for today, and even more importantly a strong incentive for firms in examining these issues, internally and externally, and proposing solid solutions, to qualify for funding.

2.4 Reforming social policies and schemes and developing new ones in terms of social investment

The notion of social investment has all the characteristics of a good idea. Investment looks to development of the economy and society, its efficiency, modernisation and prosperity. Investment in the social sector could be seen as starting from the consideration that human beings are not merely resources to be exploited or simply factors of production. They are living beings whose care, competences, and aspirations to well-

17 Details in Salais R. (1988) 'Les stratégies de modernisation de 1983 à 1986 : le marché, l'organisation, le financement', *Economie et statistique*, 213, pp. 51-73 and in Storper M. and R. Salais (1997), *Worlds of Production. The Action Frameworks of the Economy*, Cambridge MA, Harvard University Press, chapter 4, p. 77-93.

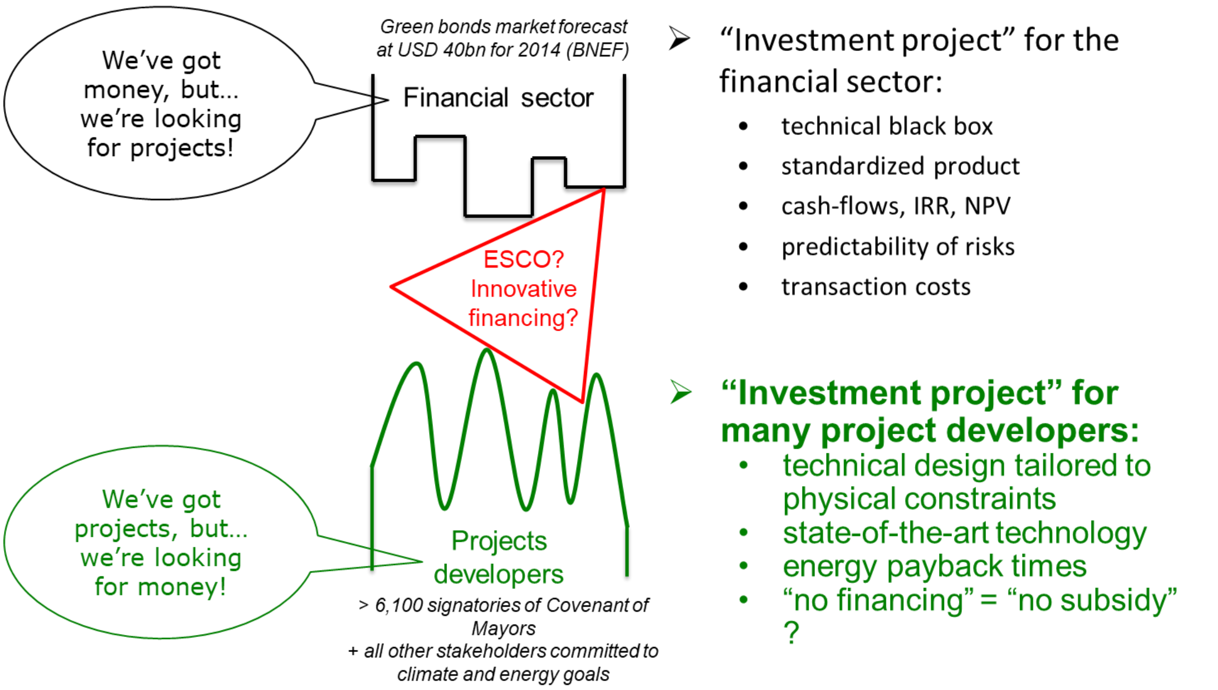
18 Also known as Caisse des Dépots Groupe.

being (and adding, according to Sen),[19] freedom, autonomy, participation and solidarity are not only key values, but key objectives to achieve in our societies in their several dimensions - ethical, political, social, environmental and economic. This means that social investment is not exactly the same as investing in social matters. Our attention should be drawn to a basic ambiguity in the European notion of social investment.

2.4.1 Is social investment basically an investment like any other, the only difference being that its content is social and not economic or financial?

If social investment is an investment like others, one need not focus on the diversity of choice criteria or heterogeneity of situations, people, and social schemes and domains, but only on profitability, more or less revisited in its definition and level. The major issue is how to attract investors, private or public, to a new field, how to create a market able to respond to investors' needs (security, liquidity, profit expectations, size and depth of the market). Meeting investors' needs means standardisation of procedures, of assets, of measurement of outcomes, of beneficiaries' profiles. If not, investors would not be able to make secure comparisons between investment opportunities, in the social domain and in other sectors; as a consequence, the market would not work. There would be little or no social investment, and some investors would not make the anticipated profit. As we will see, standardisation is hard to undertake efficiently. The same problem has arisen when the Commission has studied financing of environmentally friendly investments through financial markets (in the case of sustainable energy).

Figure 2.1 Finance and sustainable energy. Trying to match squares and circles



The above slide is taken from the presentation 'Finance for sustainable energy' by Adrien Bullier, Project adviser at the European Executive Agency for Small and Medium-Sized Enterprises (EASME).[20] It points to the gap between investment criteria for project developers and those for the financial sector: how 'to match squares and circles?' For developers, the relevant criteria are about efficiency gains in terms of economies of energy: technical design tailored to physical constraints, state-of-art technology and energy payback

19 Sen, 1993.
20 Horizon 2020 Energy Efficiency Information Day, 12 December 2014.

times. The latter criteria emphasise that the shorter the energy payback time the more efficient and the less costly will be the investment be for consumers and for society as a whole. These criteria are to be compared with those of the financial sector. What financial investors love above all is maximising the cash flow, the highest return on investment (at least 15% or more a year) to be able to quickly disengage, and predictable risks. They are not interested in design factors (technical, material and immaterial) which they see as a black box. It follows that they need standardisation for risks to become predictable (i.e. can be submitted to probability calculation). Thus investors can compare different investments and take insurance against these risks. They fear uncertainty that remains inevitably associated with the many contingencies surrounding the preparation, implementation and functioning of these new types of investments.

However, at the difference of the NPM-based social experts, European environmental experts have seen the contradiction between the squares and the circles: between the technical criteria required for investments in economising energy, and the financial criteria. The seconds ones impose to find standardised criteria; the first ones have to be adapted to each situation. They oblige to take into account tangible outcomes in economies of energy that should be effective for the concerned people. In the case of the environmental issues dealt with by Adrien Bullier, solutions to bridge the gap are sought by creating new financial tools or renovating old ones, to obtain an adequate mix of public and private funding. Public funding (national and European) is solicited primarily to insure the predictability, and even the security of financial returns for private investors. One possibility is that the public sector should act as the financer of last resort. In the event of problems leading to financial losses, private creditors are reimbursed first and the state is positioned at end of the process, in short to take losses. This can take the form of, for instance, funding risk-sharing schemes, dedicated credit lines or equity provisions (in particular, to increase the lever effect of European funding). To bridge the gap, the European Commission also proposes to organise dialogue between all relevant stakeholders, to develop roadmaps, to propose improvements in the legal frameworks and to develop template documents and contracts leading to a better understanding of the market.

All in all, in environmental issues the European Commission and investors privilege the financial return and are led to neglect developers' knowledge and expertise, not to mention the expertise of citizens, even if their relevant mobilisation conditions the economic efficiency of each investment. The reason for this is that the financial tools and correlated standardisation required by the Commission and investors cannot be grounded in the technological and market expertise of the developers. For this expertise and evaluation will follow the particular features of the local situation and environmental problems, very diverse from one situation to another, and as such cannot be standardised. Our proposal (see below) is to impose, before delivering public loans or subsidies, that technical expertises agree the investment proposed. Such agreements should be an obligatory intermediary step in the funding process for each investment. Such expertises should be made by independent experts, not linked to the investors; these experts should be committed to follow the implementation of investments and evaluate their final outcomes.

The same type of gap between environmental and financial criteria can be found in the case of social investments. In the social domain, the milieu of financial investors, in relation with the European Commission efforts, have taken a road similar to the one described for environmental issues. But they seem to believe that there is a path that leads from the micro and the individual to the macro and the collective, from the particular to the general. Such belief serves to eliminate the gap in making the micro, the individual and the particular a pure application and duplication of the macro model, as identical clones summed into a global number. This solution is well-known as the notion of 'representative individual' in macroeconomics. Here we are not outside of the field of macroeconomics; on the contrary, we cut to its core: the problem of aggregating multiple diverse singular occurrences in one aggregate, one number. The miracle solution is the *New Public Management* (NPM) that the European Commission has largely contributed to disseminate within the EU, first in macroeconomic guidance and in employment and social domains and now absolutely everywhere. National administrations have followed the EC and implanted NPM methodologies. The problem is that it eliminates any consideration of the value of outcomes for the applicants, for their diversity, from the point of view of their problems and expectations. As the French President Macron answered to this young unemployed aspiring to become gardener: *'Right now, I cross the street and I find a job for you.'*[21]

2.4.2 Or does social investment mean investing in the social? The social, by essence, concerns society as a whole, people and citizens insofar as they are the collective and individual living targets.

In this conception, the major issue is that society as a whole, people and citizens - collectively and individually - must imperatively have their voice heard in investment choices. So a major issue arises, that of democracy, which calls into question modes of governance and of participation. In this conception one faces the same wide diversity and even heterogeneity of situations, of domains, of personal aspirations and of possible solutions as before. However, thanks to the capability-human rights approach (CHRA), another path can be elaborated to solve the problem of heterogeneity while taking in true account the diversity of people's aspirations and seeking adequate solutions (see, below, Part III). At what levels or steps of the investment process should this approach intervene? Through what participative procedures? What should be the feedback between expression of voices, capability development and investment implementation? How far could one consolidate its status as a democratic issue? How can standard NPM-based governance be renovated? These are some of the many questions to which appropriate answers must be found.

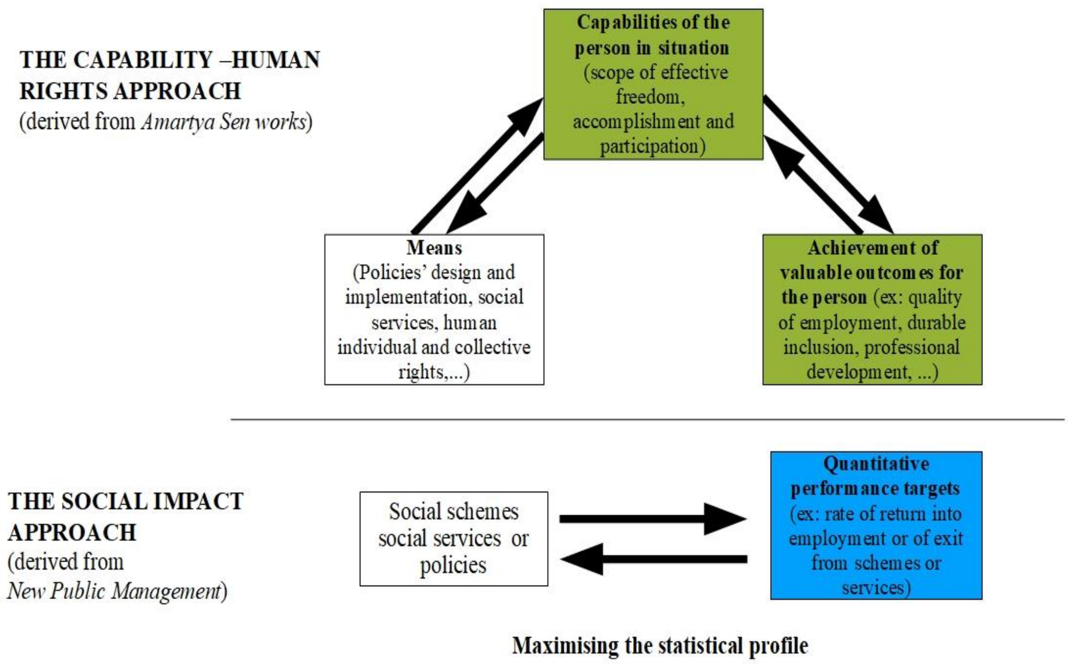
21 See footnote 16

3. Challenging social impact-based governance: implementing the capability-human rights approach (CHRA) in social investment

To illustrate and make understandable what follows, we will base our developments on two figures. They go further and complete the methodology on which the WP6 has funded its empirical works and outcomes in that: firstly, they compare line by line, so to speak, social impact-based governance with a CHRA-based approach, and secondly, they introduce what is, in our view, the core issue for social policies, services and schemes and is lacking in the WP6: the type of evaluation of outcomes and the feedback to be created between outcomes and the design and procedures of social policies, services and schemes.

Figure 2.1 focuses on the type of evaluation and its place and role in social policies. Figure 3.1 illustrates the process of implementing them. It should be noted that these figures can be read either as ways to build the relationship between social policies and evaluation, or as a methodology to analyse existing policies and to find possible compromises or mixes between the two approaches, i.e. social impact and capability-human rights approaches.

Figure 3.1 **Two conceptions of the relationship between social policy and evaluation - Improving the power of conversion of means into achievement of valuable outcomes**



Source Authors' elaboration

Figure 3.1 opposes two conceptions of social policies,[22] with regards to the relationship between implementation and evaluation, and to their dynamics and adjustment to situations. The lower half of the diagram refers to the social impact approach in which social policies are guided by the maximisation of <u>performance targets</u>. The upper half represents the capability-human rights approach in which policies are guided by the achievement of <u>valuable outcomes</u> for the people concerned. The social impact approach is the one chosen by the European Commission and investors in their conception of social investment; it focuses on maximising the 'social impact', which is precisely the performance with regards to quantitative indicators. The dynamic feedback shown by the arrows in the diagram between policy and performance, results in modifications that are intended to improve performance. This feedback inevitably pushes managers to seek the best statistical profile of the scheme (public or private), i.e. the one that ensures better quantitative performance. The main attraction for private investors is that quantitative performance can be easily expressed in terms of financial return calculations and expectations, yielding incentives that make sense to them.

The capability-human rights approach (CHRA) to social investment would be fundamentally different in all respects. Figure 2.1 above presents a triangular combination between 'means' and 'valuable outcomes' mediated by the 'capabilities of the person in her/his situation'. It also creates a dynamic feedback between means and outcomes, mediated by the capabilities.

Our view is that social investment in Europe (in the sense of investing in the social dimension) should be conceived along the lines of this triangular conception and dynamics. We will begin by deciphering the social impact approach (SIA), its origins, current developments and difficulties (Paragraph 3.1), and then compare it with the capability-human rights approach (CHRA).

Paragraph 3.1 analyses the social impact governance as put in place by the European Commission. To invest in the social domain, Paragraph 3.2 opposes to the social impact governance the capability - human rights approach. Paragraph 3.3 explores what implementing a CHRA could be.

3.1 From 'evidence' to social impact measurement: the case of social impact bonds (SIB)

In its Communication COM (2013/083) the European Commission blurs the distinction between the third sector and the private sector. It develops what it calls 'Targeted EU Initiatives' as if there were no need to consider the third and private sectors as having different goals, principles of action and social philosophy. For instance, the Commission writes: *'Innovative financing of social investment from private and third sector resources is crucial to complement public sector efforts.* [23] However NGOs, not-for-profit associations, charitable foundations and other social organisations of the same type- have long intervened in the social domain, alone or in cooperation with the public sector. Unlike private capital, in principle at least, NGOs that create infrastructure and provide social services are not searching for financial profit, but seek to contribute to the common good of the community. These EU 'initiatives' are not ordinary or banal undertakings, for they range from 'supporting social enterprises' access to finance', to 'exploring the use of new financial instruments' and, not the least, to Social Impact Bonds (SIB) as 'avenues to be explored'. The SIB, in particular, are seen as the most advanced type of 'social investment'. For private investors the purpose of these bonds is, under certain conditions, to procure a profit to be paid by the public sector. As the Commission states: 'With a social impact bond, typically a private investor funds a social service provider to implement a social programme in return for a promise ('bond') from the public sector to reimburse the initial investment and pay a rate of return if the programme achieves predefined social outcomes'.[24]

22 In the following we use indifferently the terms of policy, scheme or service as covering the whole field of social tools.
23 COM (/2013)83 final, p. 19.
24 COM (2013) 83 final, footnote 17, p. 6.

3.1.1 Enlarging the European definition of social enterprises

For more in-depth understanding, we have to go to another sector of the European Commission, not the Directorate-General for Employment, Social Affairs and Inclusion, but the Directorate-General for Internal Market, Industry, Entrepreneurship and SMEs. Private capital is governed by internal market regulations and controls, including for social activities and social investments as defined by the Communication.[25]

We know that, thanks to the economic crisis and the abdication of most national governments, the Commission and other European authorities have enlarged their domains of competence and of intervention to include domains for which they have no juridical competence. Public social expenditure has been included in the calculation of States' overall deficit, bringing social expenditure under the surveillance of the ECB and accentuating its status as an adjustment variable. The European Court of Justice frames its rulings by giving some priority to economic freedoms over social rights. The Communication on social investment recalls that 'although social policies are primarily the competence of Member States, the EU supports and complements the activities of the Member States', which, clearly stated, implies 'stronger economic governance and enhanced fiscal surveillance in Member States, ... and must be accompanied by improved policy surveillance in the social areas which over time contributes to crisis management, shock absorption and an adequate level of social investment across Europe'.[26] This is all the more true as the Commission intends to use the European Funds created under the label of social investment to press Member States to employ specific methods of governance.

In the social investment domain, this innovation, built from 2011 to 2013, comes from the DG for Internal Market, Industry, Entrepreneurship and SMEs.[27] It enlarges the European legal definition of social entrepreneurship. Until now, the standard definition of social enterprise referred to an operator on the social field whose objective was to have a social impact, not to make a profit for their owners or stakeholders. If a positive net income remained after costs, it was expected to be used to better achieve the social objectives, qualitatively and quantitatively. Such operators are generally cooperatives, mutual societies, not-for-profit groups, charitable foundations, and the like.

But the European Commission has subtly modified and extended the definition of social entrepreneurship, so that it now covers new private-sector actors, in particular private investment funds. The Commission considers that 'one should use the formidable leverage that the European industry of assets management offers (7000 billion Euros in 2009) to favour the development of enterprises that, beyond the legitimate search for financial profit, also pursue objectives of general interest, of social, ethical and environmental development'.[28] So the EU has adopted a series of regulations aiming at creating a framework favourable to social enterprises. The Regulation n°346/2013 on European Social Entrepreneurship Funds (version 14/7/2016)[29] is part of the Social Business Initiative established by the Commission in its Communication of 25 October 2011 entitled Social Business Initiative - Creating a favourable climate for social enterprises.

In its preliminary remarks the Regulation states that, 'Increasingly as investors also pursue social goals and are not only seeking financial returns, a <u>social investment market</u> has been emerging in the Union, comprising, <u>in part, investment funds</u> targeting social undertakings.[30] Such investment funds provide funding to social undertakings that act as drivers of social change by offering innovative solutions to social problems, for example by helping to tackle the social consequences of the financial crisis, and by making a valuable contribution to meeting the objectives of the Europe 2020 Strategy'.[31]

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25 Our thanks to Nicole Alix who was the first to draw our attention to social entrepreneurship as viewed by the European Commission. See Alix N. and A. Baudet, 2013.

26 COM (2013) 83 final, p. 21.

27 See Communication COM/2011/682 25 October 2011, Social Business Initiative. Creating a favourable climate for social enterprises, key stakeholders in the social economy and innovation.

28 Quoted in Nicole Alix and Alain Baudet, 2013.

29 Called REG No 346/2013 below.

30 Our underlining.

31 REG No 346/2013, p. 1

3.1.2 Achieving measurable, positive social impacts as primary objective to justify profit

The Regulation defines social enterprises as enterprises having among their objectives 'to produce positive social impacts'. It is worthwhile examining these conditions in detail. Assets can enter a qualifying social portfolio (i.e. allowing investment funds to participate to the social investment market), when the undertaking satisfies the following main conditions:

- 'having the achievement of measurable, positive social impacts as their primary objective in accordance with its articles of association, statutes or any other rules or instruments of incorporation establishing the business;
- providing services or goods to vulnerable or marginalised, disadvantaged or excluded persons;
- employing a method of production of goods or services that embodies its social objective, or providing financial support exclusively to social undertakings;
- using its profits primarily to achieve its primary social objective in accordance with its articles of association, statutes or any other rules or instruments of incorporation establishing the business and with the predefined procedures and rules therein, which determine the circumstances in which profits are distributed to shareholders and owners to ensure that any such distribution of profits does not undermine its primary objective'.[32]

Banks and insurances are authorised to have social assets that fulfil these conditions in their overall portfolio.

The Commission insists on the fact that positive social impacts should be for these investors 'their primary objective'. One cannot be against measurable impacts of social investments, all the more if they appear positive, whether they come from the public sector, the third sector or the private sector. The decisive question regards the methodology and procedures for measuring social impacts. In Paragraph 3.2, we sketch out the measurement methodology of the capability-human rights approach, which, in itself, is not restricted to the public sector, the third sector or the private sector. The pathway preferred by the Commission - developing a social investment market and using performance indicators to evaluate social impacts - appears to be a *cul-de sac* (a dead-end if one prefers), with regards to its ambition. For any market needs to standardise evaluation procedures. To choose where to invest, investors need to compare the available opportunities. Comparability, to be secure, requires the use of strictly identical methods of measurement, hence standardisation. Given the huge heterogeneity among social domains, it is quite impossible to achieve standardisation in a way that would be satisfactory for private investors. As for investment in environmental issues, the minimum would be risk-sharing between the public and the private sectors, which generates other problems.

Public administration is now accustomed to these notions and has been progressively converted management via market solutions. Depending on the country, more and more public social services are subcontracted to the private sector, and privatisation continues and public-private partnerships flourish. However such arrangements require contracting, negotiation, and recourse to expertise or consulting firms that help management by quantitative performance to penetrate the public sector.[33] They induce non-negligible indirect costs (the famous transaction costs), and a changing conception of social welfare. Instead of durable procedures, schemes and rules, it favours the development of a project culture, hence of short term and flexible programmes, cobbled together to the detriment of long-term investments.

3.1.3 The politics of evidence as applied to social impact measurement [34]

Another aspect of the proposed reforms is to generalise social impact measurement. Not only does such measurement intervene in evaluating the performance of service providers and builders of social infrastructures, and favour the creation of a market, they must also provide the 'evidence' required to justify the

32 Ibid., p. 10.

33 See Suleiman E., 2003, Desrosières A., 2008, Salais R., 2010a, 2010b.

34 The discussion we pursue here is developed in Mennicken A. and R. Salais, eds., 2019, *The New Politics of Numbers. Quantification, Administrative Capacity and Democracy,* London, Palgrave, forthcoming.

recourse to private financing. This recourse must exhibit efficient performance in terms of costs and outcomes. It is at the core of the most advanced instrument, Social Impact Bonds (SIB), in which the state has to pay back the initial investment with an additional rate of return for the capital invested in schemes that achieve their targets. Quantification activities are thus tasked with producing evidence that will serve as justification for profits.

One of the main issues to be disentangled is apprehending the biases that the political context surrounding social investments is producing in quantification practices and in evaluation. In this context rational bargaining is developing between the State, investors and service providers (or infrastructure builders). As the example of the Open Method of Coordination (OMC) demonstrates, all the parties have incentives to orient quantification procedures and rules in their favour. For instance, they have incentives to select the best indicators of performance, those that conform to the contractual targets. This cannot but create tensions between the divergent interests of the public administration and the investor. Furthermore, the provider may be tempted to directly maximise the indicators instead of truly improving the social situations of the beneficiaries.

We will look first at this notion of 'evidence' and then try to disentangle the 'social impact' methodology chosen by the EC. It is not easy for researchers to obtain relevant data and information, as these contracts are increasingly covered by laws protecting business secrecy.

3.1.4 What does 'evidence' mean?

The notion of 'evidence' is at the core of the political approach to social investment-based reforms of social policies in Europe. 'Evidence' belongs to the English tradition of scientific thought since the 17th century, as found in the seminal works of Francis Bacon.[35] For Bacon knowledge is not necessarily 'fact'. In a nutshell, data are considered as evidence by Bacon and his successors, when they meet two conditions. They should be detached both from the variety of the contexts of observation and from theoretical controversies (that are relegated to the rank of ideologies). If they meet these conditions, such facts and data can be said to be objective. This means that such facts become entirely self-sufficient as indisputable truths. They owe nothing to the turbulence of ideological debates or the specificities of the fields of observation. So these facts and the corresponding data must necessarily prevail, without any discussion, in debate. They become evidence; this is precisely what the European Commission claims in fixing and using sets of indicators to assess the truth of the situation; it founds its conclusions and recommendations on them.[36]

Quantitative evidence is therefore a powerful political tool. In practice this notion is problematic when transposed to the social domain, especially if one takes into account that quantitative measures are always based on statistical conventions which by essence, are socially and historically constructed.[37] The truth is that European evidence must be interpreted as fabricated normative statements. In three dimensions: first of all, the selection of indicators is not neutral, but reflects normative choices; secondly, much depends on the manner in which indicators are defined and evaluated; thirdly, there is a subtly rational game between the political guidelines that Member States are to apply, and the monitoring indicators supposed to measure the progress they make or fail to make in their implementation.

The next paragraph will look at the Open Method of Coordination, as example of a systematic, although specific, monitoring of national social policies and schemes through quantitative indicators of performance. We will take as an illustration the European Employment Strategy, for it shows the biases which threaten the social impact measurement of social investments as defined by the EC.

35 Daston L., 1994; Bonvin J.-M. and E. Rosenstein, 2009; Salais R., 2015; Bonvin J.-M., Laruffa, F and E. Rosenstein, 2017.
36 Salais, 2006 in case of the European Employment Strategy.
37 Desrosières A., 2002; Desrosières A. and L. Thévenot, 1988; Salais R., Baverez N and B. Reynaud, 1986 (1999).

The following paragraph describes the Social Impact Bonds (SIB) mentioned in the 2013 EU Communication.[38] This financial innovation, still in experimental stages, distils all the new trends that, social investments should meet, according to the EU. So whatever the future of the SIB, analysis of the bond instrument reveals the ultimate goals assigned to social conception and expenditure.

3.1.5 The Open Method of Coordination (OMC)

In its very first paragraph (page 1, line 7), as we have seen, the Communication recalls that: *'The Open Method of Coordination on social protection and social exclusion has contributed to steering Member States' structural reforms in these areas.'* It is thus worthwhile to remember (or to explain to those who have not yet understood) what the Open Method of Coordination is and how it works. It appears in many respects to be the predecessor, within the European process, of social impact measurement, even though the latter has other sources and applications. Both share many characteristics.

The OMC was developed for the first time in the framework of the European Employment Strategy (EES) in the 2000s.[39] Three aspects have to be considered, the normative dimension embedded in the indicators, the way they are computed, and governance (the relationship between political guidelines and measurement via indicators).

The normative dimension stems from the conception of the functioning of the labour market embedded in the set of indicators. As everybody knows, except - it seems - the European Commission, the labour market presents two sides: the supply of jobs by the employers, the demand for jobs by people looking to be employed; not only the numbers, but also the quality of jobs offered, especially with regards to their durability and security. The number of unemployed people depends on the confrontation between supply and demand of jobs. The market is thus the outcome of two flows, unemployed people finding a job, which depends on their employability; and employed people losing their job, which depends on their vulnerability. So, simply put, the higher the employability, the more unemployment decreases. The higher the vulnerability, the more unemployment increases. The problem with European indicators is that they take into account only one side, the employability of people, leaving the other side unexplored, the vulnerability to job loss. The only task assigned to employment policies is to 'activate' people.[40] Basically, this means that, for the EC, the principle guiding labour markets is that workers should adapt to the jobs offered whatever their quality, and not the reverse, that jobs should be adapted to the people.

The second dimension is the way in which the main monitoring indicators are computed. The main EES indicator is the rate of employment, i.e. of the number of people with a job, related to the size of the population of an age to work. The objective fixed for European and national policies is to maximise the rate of employment, which at first glance appears to be a good choice. But this depends on the way the rate is computed. The computation of the 'monitoring' indicator (the only one taken in consideration by the Commission) is to consider that any task lasting at least one hour during the week of observation has to be considered as a job. No criteria of employment quality are used. Such a broad definition of a 'job' automatically increases the rate of employment and, most importantly, provides a strong incentive for national governments to deregulate their labour market and, so doing, increase their quantitative performance. A full-time job counts for one; divided into four precarious jobs, it counts for four. The Commission makes a political use of the ILO definition of 'employment' that the ILO recommends to its members for producing statistics. It is a remarkable example of transforming statistical tools into political instruments.

The third dimension, more sophisticated, is the governance aspect, i.e. the relationship established between the political guideline and its monitoring indicator in the process of implementation. Basically the Open Method of Coordination equates the *qualitative improvement* of the situation that is explicitly pursued by the guideline (at least by its wording) with the *quantitative increase (or decrease)* of the indicator. The more,

38 COM (2013) 83 final, footnote 17, p. 6.

39 Salais, op. quoted, 2006.

40 On activation policies viewed from the point of a capability approach, see Bonvin J.-M. and M. Orton, 2009; Bonvin J.-M., Moachon E. and J. Vero, 2011.

the better. But for whom? The administration managing the scheme or the people in search of a good inclusion in the labour market?

Figure 3.2 A guideline and its indicator

- Guideline « Ensure inclusive labour markets » : asks the Member States to develop « active and preventive measures including early identification of needs, job search assistance, guidance and training as part of personalised action plans, provision of necessary social services to support the inclusion of the furthest away from the labour market and contribute to the eradication of poverty »
- Wonderful in ethical terms, is not it? But what does it truly means? The answer is provided by the tool and its real use: the corresponding monitoring indicator
- Monitoring indicator « New start » : « Share of young/adults becoming unemployed in month X, still unemployed in month X+6/12, and not having been offered a new start in the form of training, retraining, work experience, a job or other employability measure »

Source ESS, 2006

The Guideline 'Ensure inclusive labour markets' used in the 2006 EES illustrates the political as well as methodological bias introduced into politics in the case of inclusion in labour markets. This Guideline asks the Member States to develop 'active and preventive measures including early identification of needs, job search assistance, guidance and training as part of personalised action plans, provision of necessary social services to support the inclusion of the furthest away from the labour market and contribute to the eradication of poverty'. The problem is its monitoring indicator.

Its monitoring indicator 'New start' is: 'Share of young/adults becoming unemployed in month X, still unemployed in month X+6/12, and not having been offered a new start in the form of training, retraining, work experience, a job or other employability measure'. Such an indicator reduces a variety of qualitative schemes of different natures (early identification of needs, job search assistance, guidance and training, personalised action plans, provision of necessary social services ...) which, certainly, are of help for the persons, to *one number*. It does not refer to the quality and intensity of help provided for each individual, for instance the level of expenditure or the number of days' people spend in these schemes or the quality of the job found. It measures the speed with which people leave the scheme. The underlying syllogism is: the more people have offers of any kind, the earlier people will leave the scheme, and the better the outcome. The list of eligible offers comprises eclectic proposals that, for a large part (for instance work experience, another measure of employability) risks being far from a true and durable inclusion in the labour market. National administrations and private providers quickly understand that their performance will be measured not by the social quality and efficiency of their policy, but by the percentage of people leaving the schemes as rapidly as possible. So they create incentives and put pressure on the unemployed and those excluded from the job market to take any offer whatsoever, and the first one if possible. There has been a debate between national administrations on how to count new starters. The French administration argued for counting as

New Start beneficiaries only those who explicitly accepted the offer; the British administration favoured counting all the people who had received an offer, whether they accepted it or not.

One can expect similar phenomena and biases for social impact measures based on performance indicators.[41] Excepting the people concerned who desire the best impact for their future, the other actors, the administration, private-sector providers and investors are primarily interested in maximising of measured social impact, albeit in different ways. There is an urgent need for detailed research on implementation of social impact measures in actual cases. As experienced in the RE-InVEST collective, it is hard to understand the key importance of quantification in politics. In private statisticians are accustomed to say, 'The only manner to really understand what data mean is to work in the kitchen (the data workshop) and, when outside, to be reflexive with regards to the signification of our practice.'

Clearly, those who advocate for methods described above situate themselves not in the kitchen, but in another world, the building of social investment markets, ruled by the search for profit and by the standardisation of evaluation procedures. Their perspective is not the meaning of data; it is to reinforce the credibility and efficiency of the market. As we have seen before, the EU Regulation requires that investors exhibit social impact measures in order to be accepted in such markets. The problem is to be able to standardise methodologies for the purpose of comparability. If this is not the case, the markets will not function. Private capital will be uncertain about the expected returns and worried about insufficient market liquidity (that would impede easy portfolio adjustments). As said before, it is very difficult to achieve standardisation in such markets. The objects manipulated are not products or services, but human beings participating in social schemes, with all their diversity, unpredictability, whims, wishes and freedom. The social schemes and services are themselves very diverse, designed differently according to social risk, type of service offered and so on. It is quite impossible to use the same methodologies and indicators for all. Third-sector organisations do not have these problems. Being, in principle, outside of market they are able to develop idiosyncratic methodologies of their own, dedicated to their specific services. There is no need to compare them with other providers, unless the Commission expects them to compete with private providers.

3.1.6 At the edge of financial innovation: Social Impact Bonds (SIB)

The European Commission, international organisations like OECD and the World Bank, as well as actors of financial markets, are working hard, to find satisfactory market solutions. We will focus on SIBs. As we have said above, the European Commission correctly defines SIBs in the following way: 'With a social impact bond, typically a private investor funds a social service provider to implement a social programme in return for a promise ('bond') from the public sector to reimburse the initial investment and pay a rate of return if the programme achieves predefined social outcomes.'[42]

SIBs are still in an experimental phase, mostly in the USA, some in UK, now in France. The literature is growing very quickly, however, mostly advocating use of these bonds and finding more and more arguments in their favour, praising their efficiency, the indisputable objectivity of the measurement of their quantitative impact, even their ethical quality.[43] The initial framework comes from the French economist Esther Duflo in her research and political advice to the American government. Her proposals met with the favour of President Obama and the US government. Even the G8 found time in 2014 to hold a special session on social impact investment in London.[44] A conference was organised by the Vatican (Roma 15-17 June 2014) to make the Vatican and the Catholic Church aware of the virtues of social impact investment, especially for the poor.[45] The first sentences of the account of the Conference reflect the ambitions of its promoters:

41 On the views on social impact investing of diverse actors, see Confrontations, 2015.

42 COM (2013) 83 final, footnote 17, p. 6. For a recension, Confrontations, 2015.

43 For instance, see the abundant literature on the website of the US Federal Reserve Bank of San Francisco, on http://www.frbsf.org/community-development/publications, search for 'Community Development Investment Review'

44 See the Report of the Social Impact Investment Task Force, established under the UK presidency of the G8, 15 September 2014, 'Impact Investment: The Invisible Hand of Markets. Harnessing the power of entrepreneurship, innovation and capital for the public good'.

45 Entitled 'The First Vatican Conference on Impact Investing'.

‘Pope Francis has called the world to find ways to use money to serve people. Impact Investing - investments made with the intention to generate measurable social and environmental impact alongside financial return - holds great promise as a tool to serve the poor.’[46]

SIBs combine all the properties required by EU Regulations: private funding of social action; the stated intention to go beyond the sole search for profit; targets set by quantitative indicators, negotiated with the public administration; objective measurement of the social impact according to these indicators; the use of a comparison group not involved in the scheme; independent assessors to establish and test the method; objectively indisputable justification of profits made; if goals are achieved or exceeded reimbursement from the public budget of the initial investment plus payment of a rate of return.[47]

We had access to a report on measurement of social impact concerning a (now famous) British SIB experiment, the HMP Peterborough, for the private provision of a prison.[48] The SIB was signed between the Ministry of Justice and an investor (called the Social Impact Bond partnership) in March 2010. At mid-term, the Assessor Report concluded that, ‘despite a 8.39% reduction in the number of reconvictions in Cohort 1 [of released prisoners] when compared with the Comparison Group, the reduction was insufficient with regard to the terms set out in the contract between the Ministry of Justice and the Social Impact Bond partnership to be considered an Outcome, thus did not trigger payment.’[49] Of course one example is not enough to draw conclusions. And in the UK the secrecy imposed on business affairs makes it impossible for researchers to have access to the terms of the contract and its negotiation, especially on the indicators of performance taken as targets.

However, a failure is not a good sign for the promoters, especially if it should last and risk discouraging private investors who, above all, want their money back. This underlines the complexities of the learning processes confronting all actors in such schemes: not only public administration, private investors and service providers, but also assessors establishing the list of indicators, their precise definition and measurement methodology in specific contexts, and the staffs of the provider and of the scheme (in this case the prison staff) not to forget the beneficiaries (in this case the prisoners). It seems clear, that in order to make the market work and expand, SIBs should achieve ‘satisfying’ outcomes for all stakeholders, not always successful with regard their targets, but not failing too often. Contrary to European Commission expectations on standardisation, it is likely that for SIBs wide multi-actors and maybe multi-level negotiations will be necessary, depending of the type of social services and type of investment[50]. The matters to be discussed are multiple, complex, technical and at the same time highly political. The purpose of such negotiations is, in the end, not to achieve outcomes that could be said to be objective (in terms of scientific adequacy) and fair and just (in terms of social justice). It is to find ways to satisfy the interests of all these actors, which means finding if possible, workable compromises between several different interests.

Is this possible? We will see. Whatever the answer, however this will not impede the general on-going process we have described in this working paper. For SIBs represents only the vanguard of the movement. Many other simpler financial instruments already exist in the process, even if they are not as ‘beautiful’.

46 In «Investing for the Poor: How Impact Investing Can Serve the Common Good in the Light of Evangelii Gaudium’, *https://www.viiconference.org/.../Impact-Investing-Overview_June /Welcome message https://www.viiconference.org/2014archive/*

47 Chiapello E. and G. Godefroy, 2017, ‘The Duality of Judgment Devices. Why Does the Plurality of Market Classifications Matter’ in HSR 2017 42 1, p. 152 - 188

48 Jolliffe D. and C. Hedderman 2014. For a comment, see the contribution of Andrea Mennicken, in Mennicken A. and R. Salais (eds.) 2019.

49 All prisoners received custodial sentences of less than twelve months (‘short-term prisoners’). The reconviction rate (in French récidive) among the first cohort of male prisoners leaving the prison was used as the required target (called ‘Outcome’, i.e. the minimum required social impact) for investors to receive a payment. The target was fixed at 10%. The reconviction rate is calculated two years after release.

50 One may of course segment the social investment market in as many segments as types of social services; the risk is that these segmented markets lack of enough liquidity and deepness to secure investors.

3.2 The Capability-Human Rights Approach (CHRA) to investment in the social dimension

3.2.1 Main specificities

The characteristics of a capability approach when applied to investment in the social dimension[51] are to convert human rights into real outcomes for people which, insofar as possible, help them, as Sen states, 'to live the life they have reason to value'[52] So there is a close connection between a human rights approach and a capability approach that RE-InVEST establishes. The capability approach (CA) complements the human rights approach in that its purpose is to ensure that these rights become a reality. Not in just any manner, but by improving as far as possible for each person his/her capability of living the life he/she has reason to value. The concept of 'reason to value' has opened a wide discussion in the field; schematically, 'it refers to objectives leading to personal accomplishment. These are not any whim or desire of the person, but those that the community to which the person belongs considers, by mutual agreement or convention, of value.[53] For instance: self-esteem, participating in the community, to be fairly treated, good housing and so on.

1. The CA speaks, not simply of policy schemes, but of means (whatever their origins, public, private or collective) at the disposal of the persons. As the list in brackets indicates, the basic question addressed to the providers or managers of the scheme and which they should answer is to define and implement true means for the people, true means in that they effectively help them to develop their capabilities, and not simply increase global quantitative scores.
2. The finality of the scheme is that its beneficiaries can have access to valuable outcomes, in other terms to a real improvement in their situation. This improvement must focus on outcomes that are of value for the beneficiaries and the community. Outcomes can be considered as valuable if and only if they effectively allow people to make progress enabling them 'to live the life they have reason to value'. So doing, people also make progress towards access to the effective freedom to realise such a life.
3. Effective freedom to choose and to act is a key concept of the capability approach. The capability of a person can be estimated by the degree to which she can achieve the outcomes she has reason to value, in other terms her effective freedom to choose and to act. This degree of capability is closely connected to the features of her situation of life and work - not all the possible features or variables, but only those that have an impact, negative or positive, on her effective freedom. Sen calls them the 'focal features' of the situation of the person. Such features can be material, institutional, social or personnel. For instance, young people living in stigmatised parts of their city will have more difficulties finding a job than other youth, mostly for reasons of their place of residence.
4. The relevant means are those which have a real influence on these focal features, either weakening or impeding the impact of negative features on their capabilities or strengthening the impact of the positive features. For instance, the lesser capability of work of women with young children is not linked to their lack of training, but to the lack of inexpensive day care facilities near their homes, with opening hours adapted to their conditions of life and work.
5. It follows from the preceding items that evaluation of policy schemes should start from the effective situation of the beneficiaries, and the diversity of valuable outcomes they achieve thanks to the scheme. This is the only process of evaluation that would be fair, empirically and ethically speaking.
6. Democratic participation of the beneficiaries in deliberations on the best choice and the outcome evaluation for them are thus pillars of the capability approach. Their voices should be heard, at the same level as other stakeholders, in evaluation processes. Democratic participation is particularly important for dynamic feedback between outcomes, capabilities and means, as assessed by the arrows in Figure 3.3.

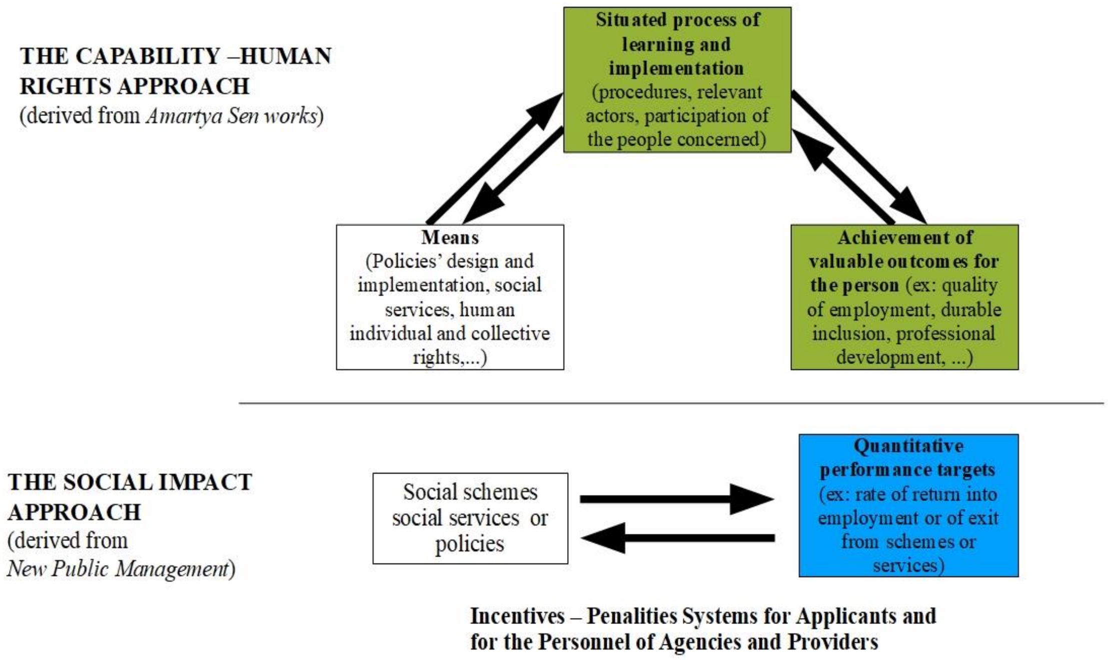
51 See, for the capability approach applied to employment and social domains: Salais R., 2003; Salais R. and R. Villeneuve, 2004; De Munck J. and B. Zimmermann, 2008; Farvaque N. and J.-M. Bonvin, 2008; Salais R., 2011.

52 Sen A., 1999.

53 A heated debate between Amartya Sen and Martha Nussbaum!

3.2.2 The dynamics of Capability-Human Rights Approach (CHRA) implementation. The deliberative process

Figure 3.3 Two conceptions for implementing social policy - favouring a situated process of learning through open deliberative procedures



Source Authors' elaboration

Here we develop the dynamic and iterative triangular feedback between *evaluation*, the process of *learning* with participation of all relevant actors, and *revision* of policy designs and frameworks. We comment on Figure 3.3 above. In the case of CHRA implementation, iterative feedback proceeds as follows.

Feedback starts with the evaluation of outcomes for the people.

The 'benchmarks' for evaluating outcomes[54] for the beneficiaries are not global quantitative indicators of social impact, but what each beneficiary considers as a valuable outcome for herself/ himself in the field of the scheme. For instance, in the case of inclusion in the labour market, such valuable outcomes will refer to the type of job (profession, durability, work conditions and so on). The evaluation process will have as its object the 'gap' between this personalised benchmark and what the scheme has achieved for the beneficiary. This gap is an <u>indicator in the sense that it indicates</u> (not of quantifying only, giving an information among others) the lack of the capabilities people suffers to achieving their ends. This helps move to the next step of the feedback, the capabilities. It does not replace a deliberative inquiry.

How can this gap be objectively evaluated if the benchmarks are personalised, and hence a priori subjective and dependent on each person? This is where deliberation on outcomes enters. The deliberative process should be designed as a process, both of discussion, reflexivity and emergence involving beneficiaries, scheme's personnel, and presumably other stakeholders. Among them, we can think of local employers,

54 Remind that it could not be any whim, but an outcome valuable with regards to what the community through democratic process considers of value to be pursued.

advocacy groups that defend people, for instance unemployed or handicapped people, possibly municipalities. The aim - fixed and known to the participants - would be to reach a common statement concerning the effectiveness, the scope and the nature of these gaps. A common statement is not necessarily an agreement; more often, it will include disagreements. The beneficiaries themselves would have the possibility to revise their benchmark (in a way, their ambitions); they could, in the other sense, discover possibilities, competencies that they were previously unaware of. The same is true for the personnel, who might revise their opinion of the people they have in charge, positively or negatively, and as a consequence, adjust their support.

Implementing such deliberative processes and making them effective raises a series of issues. How will voices be heard and taken into account? How will equality to deliberate be achieved among participants. These questions are beginning to be addressed by the literature.[55] The main concern focuses on the beneficiaries of schemes who are in a subordinate position; hence the interest of collective actors defending their interests.

Having evaluated the individual gaps, it becomes possible to proceed to the inquiry about the capabilities required to fulfil these gaps. The objective of this inquiry is to discover the focal features of the life and work situations of the people, i.e. the variables on which to act in order to weaken or to strengthen their impact on the capabilities of the people. The question most often raised is not about individual lack of competencies, but has to do with material features of the situation. For instance, again, take a single mother with a young child who has trouble finding a satisfactory child minder. Her capability to find a good job is severely reduced. The solution is to help her to find a day centre that accepts her child on a full-time basis, at low or reasonable.[56]

Exploiting the results of the inquiry may more broadly and in the end reveal that the means provided by the scheme are poorly designed and should be adjusted for more efficient action on the focal features of situations to be remedied. For instance, the duration initially chosen for people to be involved in the scheme may be too short for many of them, or the ways in which the personnel establish relationships with them may not be appropriate. In such cases, the nature and type of means or the design and organisation of the scheme must be adjusted. Taking feedback into account induces an approach of social policies in terms of on-going revision with the participation of the people involved, and not in terms of short-term projects, be they publicly or privatively funded.

Examples of iterative feedback can be found in several studies: Farvaque and Salais, 2003, on a French scheme, local missions for the employment of young people,[57], on vocational training within firms (Lambert & Vero, 2007), on marginalised youth (Bonvin & Dif-Pradalier, 2011). These iterative processes involving several 'meetings' between the interested parties are already well documented in management and decision theory literature. There is nothing extraordinary here. See, for instance, in Callon, Lascoumes and Barthe, 2001, the comparison made between two models of decision, a one-shot model descending from the top; and a model with several 'meetings' within a set of actors, with various levels of responsibility. The advantage of the second model is that the decision process is reversible and remains open to new information or to new formulations of the stakes.

3.2.3 Is it possible to correct the social impact methodology using capability-human rights methodology?

The fact that the 1948 United Nations Declaration of Fundamental Rights is close to the foundations of a human rights-capability approach strengthens and justifies the RE-InVEST lines of research. At the same

55 For the literature on deliberation see Bohman J, 1994, 1999, 2004. For trials to apply to a capability approach see Salais R., 2009; De Leonardis O., Negrelli S. and R. Salais, 2012; De Munck J., Didry C., Ferreras I. and A. Jobert, 2012

56 This example underlines the necessary coordination at the local level between public agencies in charge of specific issues, again contradicting the notion that temporary projects are more efficient than durable policies.

57 In French 'missions locales pour l'emploi des jeunes'.

time the distance between the UN Declaration and the European Charter of the European Union,[58] stemming from the EU conception of the social domain embedded in its very peculiar notion of social investment, demonstrates the necessity for us to go as far and as deep as possible in putting the concept[59] of social investment on its proper foundations and in configuring its implementation.

Social impact methodology, based on maximising the global quantitative performance, claims to aim for and to achieve better efficiency, effectiveness and financial sustainability. There is no reason to disqualify the search of performance in social investment design and implementation, the human rights-capability approach included. The question is the type of performance sought, how it is implemented and measured, and how feedback is gathered for policies.

Social impact methodology has several failings in terms of performance. First of all, it is short-term oriented. The global social consequence is that many beneficiaries cannot obtain durable improvement of their state and will quickly come return to the scheme or another one. This may be good for investors, because they are guaranteed a sufficient clientele and an objective basis for their financial claims.[60] Secondly, for the State and society, the long-run costs are likely to exceed the short-term financial advantages. Thirdly, as evaluation is oriented towards satisfying the short-term interests of bureaucrats and investors, in practice it does not address the long-term expectations of people with regards to their future, generating heavy ethical and political costs in the long run. The multiplicity of specialised, and not appealed to last, investments, one by one social service among a wide diversity, runs against the need, for vulnerable people, to treat in a coordinating manner, the several problems they suffer (unemployment, lack of decent housing, recurrence of health diseases, disabilities, ...). All this taken into account, it is likely that the true global performance will be low, and even negative in some cases.

Advocates of people's activation criticise the human rights-capability approach for its excessive benevolence, if not weakness in favour of human beings. For them the approach lacks a system of penalties and incentives (mostly penalties) and therefore will attract and reward the undeserving poor. The human rights-capability approach does not hold such a pessimistic conception, although it is not unaware of the issue.

First, there are incentives and penalties in that people cannot stay forever in the scheme, and allowances have a limited duration. Most importantly, the whole process, through active participation and engagement in deliberative procedures, is conceived, as we said above, as a process of collective learning based on discussion and reflexivity. Both sides try to reconcile their views of what is at stake and make them compatible.

Secondly, the human rights-capability approach is a long-term approach. In favouring successful and durable social improvements for as many people as possible, it leads to less social expenditure, whether public or private. It thus leads in the long run to both financial and social effectiveness and efficiency, and to financial sustainability. The reason is simple - with more and more capabilities, people enjoy an effective freedom to choose and act by themselves. In addition, they become more responsible of their own future and are able to anticipate some of the hazards they may encounter. In the employment domain, the true issue is that people may not to be ready to take just any job, whatever its quality and perspectives, and may be more selective. Is this a threat for the economy or an opportunity?[61] In-depth research on this point is called for. The conclusion depends of the way the State and employers act in such a capability framework. Some employers will discover that offering stimulating jobs will result in gains for them; other will be opposed or sceptical. It will be up to the community to disseminate good practices.

Thirdly, the CHRA does not on the face of it exclude a 'reasonable' profit for the investor. However, the definition of profit should rely on other criteria and procedures leading a renewed measurement methodology. The methodology should not put the charge of putative inefficiency uniquely on the shoulders of the

58 Eschstruth I., (2004), Salais (2019).

59 We sharply distinguish between the terms 'notion' (whose interpretation is vague) and 'concept' (firmly rooted in theoretical debates and in the history of thought).

60 A tricky question is the reason why the EC decided to focus its will to rely on private financing on vulnerable people the most in difficulty.

61 As noted on a more pessimistic tone by René Lehwess-Lizmann in his dissertation p. 270.

beneficiaries of social schemes. It should be capable to separate inefficiency or an excessive search for efficiency leading to low service quality, due to the design of the scheme itself, its implementation, instructions given to the employees (incentives or penalties in case of insufficient quantitative performance), biased selection made at entry into the scheme, etc. The devil is in the details. The absolute reference should be: between the time a person enters the scheme or policy and up to a period after exit, can one observe and insure that he/she has improved his/her capability with regards to the domain treated by the scheme (health, employment, inclusion, professional insertion, employment, etc.)? For make this assessment, the public administration has to fix appropriate rules for all actors: investors, service providers, beneficiaries and of course the public administration itself. Such rules should be public, so that any breach of the rules can be known and its author held accountable. This overarching rule will act as a threat (as in a dissuasion game) that will encourage proper self-regulation of behaviours. The whole thing requires the following:

- Evaluation criteria must not be linked to maximising quantitative performance indicators, but to the common judgment (i.e. shared by all the parties) that the service provided has been 'satisfying'. This means that:
  - the criteria used to establish the judgment have to prioritise quality of the outcome, and must be discussed, tested and accepted by all the parties with the possibility of revisions or adjustments after inquiry;
  - the functioning of the scheme on all sides and for all partners should be observed longitudinally at the micro level of agencies and of representative samples of beneficiaries tracked from entry to an ultimate date to set;[62]
  - minima and maxima criteria (depending on the issue) should be determined by common agreement to define what would be satisfying in terms of quality, durability and sustainability of outcomes (generally subsumed under the term 'valuable outcome'.

3.2.4 Reading the WP6s outcomes with the glasses of the CAHR implementation as above defined

As we have seen before, the social impact measurement methodology proposed by the European Commission is one of the many avatars of the new public management (NPM). In this case, it is reduced to the simplest. It ignores the diversity of individual situations and characteristics and incites treating them in order that all leave the social scheme or institution the farthest as possible. This can be undertaking at minimal costs and investments, and ensure a secure profit. So it is a priori seducing for investors, policy makers, public administrations converted to NPM and politicians.

By contrast, as the WP6 national monographs demonstrate, concerned people are well aware of what to do to better meet their aspirations (modest in any case) and of how to change the rules, functioning and practices of the social policies they are confronted. We will pick some examples from Figure 3.4. Starting from what they consider as valuable outcomes, the interviewees' voices suggest which valuable means should improve their future (in other terms, what required social investments). Close to CAHR, these extracts are not what could be negative voices, protesting against a state of affairs, but positive ones indicating what for them would be good to improve in the scheme or institutions. Proposals, coming from experiences of people are concrete, relevant, sometimes unexpected for the profane, some could be costly, others not

62 For an example of a double-sided inquiry, see Lambert and Vero (2007).

Figure 3.4 Quotations from interviewee's voices in WP6 national monographs. A sample

- From valuable outcomes for people to efficient means
- Italy (health care)
- No waiting list; enough beds; duration of hospitalisation adequate to the person's state of health; having enough and qualified health workers
- Portugal (early childhood education and care)
- Having trust in kindergarten(k) teachers, assistants and employees; having my children happy and spontaneous speaking about their life at the k; qualified education professionals; enough and pleasant physical and place for children; reinvesting in new kindergarten or improving existing ones; positive attitudes of social workers (time and understanding); coordinating search for solutions (housing, employment, health)
- Belgium (Flanders):
- having secure access of good quality water for all; replacing smart-meters by standard counters

Take for instance the voices of Portuguese mothers having children in kindergartens. They express the desire of capabilities in the very sense of Amartya Sen: 'having trust in the kindergarten staff', 'having my children happy and spontaneously speaking at home of what they did at the kindergarten'. They must not be disqualified as subjective. For they propose some material investments that seem evident for the well-being and learning of their children like enough and pleasant places for playing and taking fresh air. Some other are not costly and of common sense, like positive attitudes of social workers.

This pleads in favour of collecting and taking into account the voices of the users of social services or institutions in policies' choices and their practical implementation. Users are also well aware of the excessive short-termism management, for instance in case of health care in Italy, too short duration of stay in hospitals which lead people to come back because they continue to have diseases.[63] Furthermore, many voices have as their object the other side, the employees of social services and institutions: for instance, 'positive attitudes of social workers in their relationship of users', in particular the most vulnerable ones, having enough and well qualified employees. Reciprocally, employees would have much to say on the problems caused by the organisation of work and by the care provided to users, problems coming from inadequate investments, inadequate rules and management (in particular deriving from NPM reforms).

63 It is accompanying with perverse financial effects. As hospitals in their majority are funded in relation with the number of medical acts prescribed (with differentiated scales of financial 'return'), such coming back increases the number of medical acts, for the concerned people have to take again all the administrative and care pathway (from urgencies towards the relevant service often preceded by an intermediary one).

Our analysis comparing the social impact measurement privileged by European authorities and law with the methodology adapted to a capability human rights-based approach leads us to our last, but not least point: transforming the PAHCRA methodology of research[64] into a new type of management of social services, the CAHRM. Such goal requires three innovations:

1. including the professional knowledge and practices of social workers into the merging of knowledge;
2. taking into account the process dimension of the provision of social services in its double time arrow (the procurement of services and the return of agreed experience for revising the organisation and management);
3. introducing impact evaluation à la Esther Duflo through randomised experimental process.

3.3 Introducing a capability human right management (CAHRM) into social services and institutions

Figure 3.5 Reminding the PAHRCA methodology: merging knowledge

Source Authors' elaboration

For us (WP7), the important methodological innovation of the PAHRCA compared with standard research methods is to collect the experience and voice of those that have experienced the care pathway. A small sample of them is interviewed at their exit of the scrutinised social service or institution, to deliver what is called the 'experiential knowledge of vulnerable people' (Figure 3.5 above). As we have observed, this knowledge appears of value to understand the organisations' functioning, beyond abstract bureaucratic data and official discourse. In PAHRCA method, it is merged with other knowledges from research and NGO's in a deliberative process (a participative group), with creates synergies between and improve them, leading to new understandings and questions.

For researchers familiar with the capability approach (CA),[65] PAHRCA and its empirical results point to characteristic features of both research and political methodologies of the approach: in particular, the accent put by users of two key variables, means and valuable outcomes (Figures 3.1 and 3.2), and to the double dimension of capability: freedom of choice and participation to the decisional process, both being effective due to the process itself is managed.[66] As such features should not only be applied in research process, but

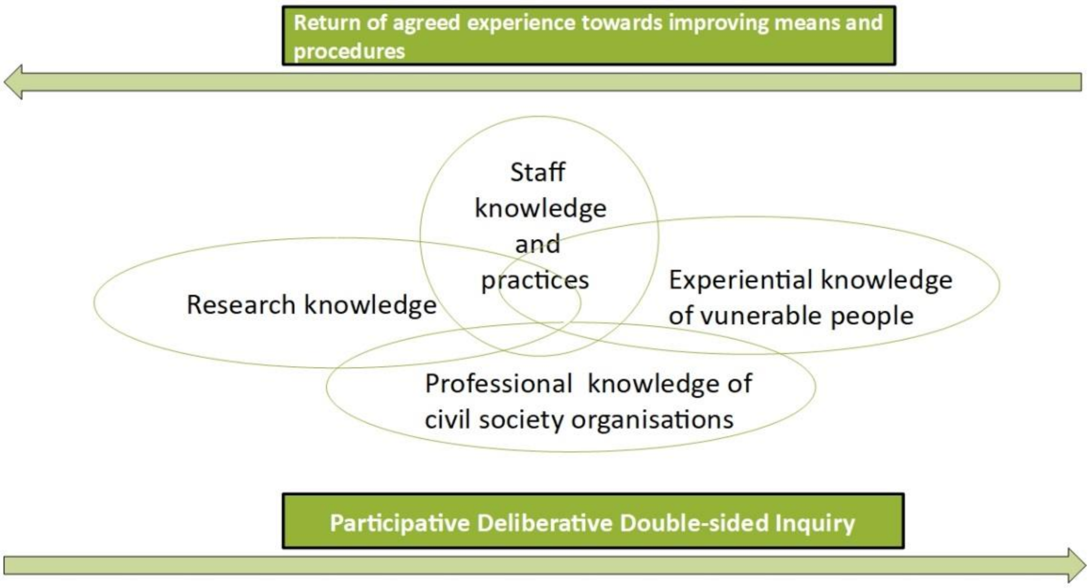
64 See WP4 Reports.
65 As several members of RE-InVEST.
66 WP4 Report.

equally in implementing the CA, quite naturally the idea emerges that, while keeping the PAHRCA innovations, to include them into a more general scheme combining research and political requirements.

The Figure 3.6, below, tries to implement the process over time and the iterative dimension of a CAHR approach in:

1. adding in the merging of knowledge the professional knowledge and practices of social personnel of the scheme;
2. internalising this merging through participative groups within the functioning and organisational rules of the scheme itself;
3. taking care of people in amount and following them enough time after their exit, in order to test their possibilities to achieve valuable outcomes.

Figure 3.6 Making research and policy methodologies coherent



Source Authors' elaboration

To comment Figure 3.6, we will recall what we said paragraph 3.2.2 above on the core of the practical CAHR methodology to be at work in agencies or schemes applying it. Until due experiments should be launched at the initiative of European authorities, what follows remains mostly prospective.

Its core is the dynamic and iterative triangular feedbacks between *evaluation*, process of *learning* with participation of all relevant actors and *revision* of policies' designs and frameworks. To the quantitative social impact based on quantitative performance, first we add the mediation between means and outcomes by a collective process of learning thanks to participative and deliberative moments that have to be implanted within agencies, with the participation of the four types of knowledge and voices detailed in Figure 3.6. One can distinguish five steps (that in practice would be interactive).

3.3.1 The benchmarking

The 'benchmarks' to evaluate outcomes for the benefiters are not global quantitative indicators of social impact, but what each benefiter considers as a valuable outcome[67] for her/him in the field operated by the scheme. For instance, in the case of inclusion in the labour market, such valuable outcome will have regards to the type of job (profession, durability, work conditions and so on). The evaluation process will have as its object the 'gap' between this personalised benchmark and what the scheme is achieving for him. This gap is an indicator in the sense of indicating (but not of quantifying, only an information among others to deal with) the lack of the capabilities people suffers to achieve their ends; it helps to go to the next step of the feedback, the capabilities.

3.3.2 The deliberative process

How to objectively evaluate such a gap if the benchmarks are personalised, hence a priori subjective and dependent of each person? Here enters on stage the deliberation on outcomes. The deliberative process should be designed as a process, both of discussion, reflexivity and emergence implying benefiters, scheme's personnel and presumably other stakeholders. Among them, one can think of local employers, associations defending people, for instance unemployed, social services users or handicapped people, possibly municipalities. The aim - fixed and known by the participants - would be to help emerge a common statement concerning the effectiveness, the scope and the nature of these gaps. A common statement is not necessary an agreement; more often, it will include disagreements. Benefiters themselves, probably, would have the possibility to revise their benchmark (in a way, their ambitions); they could, in the other sense, discover possibilities, competencies that they previously ignored. The same for the personnel which could revise its opinion on the people they have in charge, positively or negatively, and as a consequence, adjust their support. The main concern is about the benefiters of the schemes who are in a dominated position; hence the interest of collective actors defending their interests, and of researchers in position of participation.

3.3.3 The inquiry about capabilities

Having evaluated the individual gaps, it becomes possible to come to the inquiry about the capabilities required to fulfil these gaps. The objective of such inquiry is to discover the focal features of the life and work situations of the people, i.e. the variables on which to act in order to weaken or to strengthen their impact on the capabilities of the people. The question most often, though it could be, is not about individual lack of competencies. It has to do with material features of the situation. For instance, take a lone-mother with a low-age child who has difficulties to find a satisfactory child minder. So her capability to find a good job is severely reduced. The solution is to help her to find a crèche that accepts her child at full time, possibly at a low rate.[68]

3.3.4 Revising the means: the return of experience

Exploiting the results of the inquiry may, more largely, reveal - last step- that the means provided by the scheme are badly designed and should be adjusted for more efficient action on the focal features of situations on which to remedy. For instance, the duration initially chosen along which people are involved in the scheme may be too short for many of them, or the ways by which the personnel establish relationship with the people are not adequate. In such cases, one must adjust the nature and type of means, or the design and organisation of the scheme. And so on, the taking into account of feedbacks induces an approach of social

67 Remind that it could not be any whim, but an outcome valuable with regards to what the community through democratic process considers of value to be pursued.

68 Such *example* underlines the necessary coordination at the local level between public agencies in charge of specific issues; which again contradicts this idea that temporary projects are more efficient than durable coordinated policies.

policies in terms of on-going revision with the participation of the interested people, and not in terms of short-term projects, be they publicly or privatively funded.

3.3.5 Comparing outcomes of the two approaches, the quantitative performance impact and the capability-human rights impact

We plead for a scientific test that, somewhere in Europe, compares the efficiency of the two political approaches, not any type of efficiency, but what we have called *social efficiency*, as measured by the valuable outcomes achieved by the benefiters in terms of quality, durability, opportunities for instance. Our conviction is that the better the valuable outcomes, the lesser will be the long-term costs. One can imagine adopting an evaluation à la Esther Duflo through randomised experimental process. Schematically it would imply to select two samples of potential beneficiaries of the same type of social service in two different places. They should be as much as possible comparable in their statistical distribution on different variables supposed to influence the process (age, education, past conditions of life and work, social category, antecedents, and so on).

One sample would be treated by the standard quantitative NPM approach, the other one by the capability-social rights approach. That would need an apprenticeship of both approaches by the two staffs, the implementation and following the experiment will be ensure by researchers. The evaluation for each sample will be made by the two methods of evaluation (short-term quantitative performance indicators; valuable outcomes achievements). It would be worth to repeat such experiments up to the point that results could be said as reliable.

4. Conclusion

Many aspects must be studied in depth: the design of public policies, the conception of State intervention, multi-level governance and the respective responsibilities of these levels, appropriate democratic procedures apt to insure that voices can be heard, especially those of citizens and, among them, of those most in need; and so on. One of the key issues concerns private investors and social investment markets. How can we set rules and ensure adequate surveillance procedures to engage investors and markets in a human rights and capability approach? Is this conceivable and possible?

The investigation we develop in this paper does not condemn the concept of social investment and the search for its implementation. It calls for another conception and design, procedures and implementation, along the lines of the European Research Project RE-InVEST, namely human rights-capabilities approach. At the very least, this will require:

1. a different grounding for fundamental rights in the social domain, not the Charter of Fundamental Rights of the European Union, but the 1948 UN Universal Declaration of Human Rights or The European Convention of Human Rights;
2. a measure of social impact based not on prefixed quantitative performances but on shared democratic processes of measurement of the valuable outcomes achieved by the people concerned. Such processes do not exclude the search, among other sets of data, for indicators. But the use of indicators would be limited to 'indicate' some issue or question to be addressed by the establishment of a valuable 'informational basis of judgment on justice' (IBJJ), i.e. a correct and fair statement of the social situation to be dealt with. And not used to pilot undemocratically steer the process towards the maximisation, by any means, of a pre-established set of indicators.

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