

Valorizing Dependence: Inclusion of the Disabled in Theories of Justice

by

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Dedication

*For P.G.M. and E.E.D.H.*

*and in memory of D.C.H.*

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i) *Introduction*

What does it mean to be dependent? Is dependence really a condition much, much worse than independence? Are citizens who are dependent, say, for part or all of their lives necessarily worse off than citizens who exhibit some form of independence? Is there, perhaps, a kind of continuity between the disabled and the abled that centers on the notion of dependence rather than independence? If so, what might it look like to postulate *dependence* or *dependency* as constituting positive relations between citizens who differ in their abilities? What notions could be used to assist us in finding a way that we could excavate (more) precisely what it is that connects humans across the ability spectrum? What accounts of justice could we use to witness what structures ought to be in evident from the very start of society that makes withholding justice from the disabled a travesty, if such accounts exist?

In what follows, I offer a descriptive account of dependency. I claim that disability, seen usually to exemplify the idea of dependency in modern theories of political justice, rather is simply one part of the dependency spectrum that actually encompasses all abilities, to wit, *all citizens*. The connection between the two often appears in political philosophy concerned with justice and those who are disabled, particularly in the case of cognitive or mental disabilities. I believe, therefore, that it is a mistake to assert that abled persons are, in fact, *independent*, and it is a serious mistake to maintain that there is such a thing as independence *simpliciter* in modern political discourse.<sup>1</sup> The mistake that occurs, when independence is used as a yardstick for citizenship or personhood, is that the disabled (i.e., the prototypical *dependent*) are counted as

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<sup>1</sup> Eva Kittay writes, for instance, that “Entering the workforce and being able to earn a living is not independence as such but independence from certain oppressive conditions, and a dependence on other conditions that are hopefully more respectful of our desire to be efficacious agents” (“Centering Justice on Dependency and Recovering Freedom” (“CJD”), 287). Thus the “independence” that Kittay refers to here is modified by the fact that it is independence from a particular situation (unjust employment discrimination, in this case), and not “as such”.

charity cases or unfortunate<sup>2</sup> by not being in possession of a mythical level of independence<sup>3</sup>. I will put forward an account that demonstrates that there are binding connections between abled and disabled within society by virtue of our shared condition of dependence. Such an account is meant to be the basis for a foundational conception of equality (and relationships) within a given society. I begin from the idea that a) we need a kind of baseline, a metaphysic of dis/ability that provides a way to begin a thoughtful account of *why* political justice needs to take into account the needs of its disabled citizens; but b) that such an account can begin from concepts used in discussions of political justice, already connected with both kinds of ability; further, that c) we need to avoid any more accounts that try to set up, from the very beginning, what individuals in society need considering what “normal” persons require<sup>4</sup>, or what “normal” persons are able to do; that is, that the idea or figure of the “normal” cannot be the basis of an inclusive philosophy of political justice.

The focus of this paper, therefore, is on *dependency*, on elucidating particular relationships, and showing how this is at bottom why we might conceivably even begin a

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<sup>2</sup> Barbra Arneil, for instance, writes, “But the principle of charity also constructs the disabled as objects of pity and outside the remit of justice, an image that will last well into the twentieth century in both theory and practice as the disabled become represented, through the vehicle of numerous charitable campaigns, as dependent, tragic, and pitiable” (Arneil, 223). Arneil is concerned to take the “tragic” self-image that has developed and encourage a trend that helps the disabled shed the negative image in philosophic and political discourse. (Cf. also, Smith, 588-589).

<sup>3</sup> Or, what Steven R. Smith calls the “mythology of independent living”. Smith’s article is much more policy/economic-oriented and practical, whereas my approach to dependence begins in the theoretical and the abstract. For Smith, the “problem of dependency” resolves itself in an awareness of the interdependence of social life (cf. 579; 597-8), which is where my account hopefully arrives as well, but not in the sense that I maintain such a thing as the “problem of dependency”.

<sup>4</sup> For simplicity, and the duration of this thesis, I shall take this particular phrase to indicate persons such as are in possession of Rawls’s “two moral powers”; these are “A sense of justice is the capacity to understand, to apply, and to act from the public conception of justice [...and] The capacity for a conception of the good is the capacity to form, to revise, and rationally to pursue a conception of one’s rational advantage or good” (Rawls, *Political Liberalism* (PL), 19); this should not be taken to be strictly in opposition to what we ordinarily consider the disabled to be, after all, there are some who are classified as disabled that are in possession of one or the other of the moral powers, but still excluded from Rawls’s account all the same (cf. PL, 21)

society.<sup>5</sup> The title of this project points towards the starting point that we need an account that does not valorize independence, either in the abstract or as a real value. The truth is that none of us really are independent, or, at any rate that what is normally understood by independence (as free-standing persons, able to provide for ourselves, work, etc.) is a complete fiction. There may be ways of qualifying this (eg., that we are independent insofar as we no longer live with our parents), but I believe that qualifying this notion is simply to perpetuate the exclusion of the disabled from holding a certain standing within society. This is unacceptable.

In what follows I will examine the relationship between the ideas of dignity, care, and cooperation. These three things are important considerations. There are, perhaps, many different ways of viewing these relationships, but extensive examination of each and of all the literature concerning these notions would be impractical and, I believe, unnecessary. The fact that dignity, care, and cooperation represent dominant interests in our considerations of social structures demonstrates, at the least, that these are internal attitudes that affect external facets of justice; by “external”, here, I mean that in their very nature, these three things *depend on social interaction*. That is, without at least two persons in relationship with each other, these things may as well not exist; they would be empty concepts. That they are inherently relational, however, leads us to another conclusion: dignity, care, and cooperation describe internal structures of dependency, internal attitudes that inform the ways and kinds of treatment people desire and/or need. Through a consideration of these elements of political society I believe we can make the connection of the internality of these social products, and argue that through examining these products socially we

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<sup>5</sup> Consider, for instance, that Hobbes writes, “Men being, as has been said, by Nature, all free, equal and independent, no one can be put out of this estate, and subjected to the political power of another, without his own consent. The only way whereby any one divests himself of his natural liberty and puts on the bonds of civil society is by agreeing with other men to join and unite into a community, for their comfortable, safe, and peaceable living one amongst another, in a secure enjoyment of their properties, and a greater security against any that are not of it” (353).

are *at the same time* examining an account of the individual who has an *inner* need/desire for these products to be *externalized*.

Now the question is what would such a determination/description offer us in terms of seeking for an account that provides justice for the disabled? The answer is that this account would offer is a way to think of all human beings as *dependent*; that is, we are no longer theorizing the individual as independent in any way that is not qualified; no one in a society is independent in the way that social contract thinkers imagine the parties to the social contract.<sup>6</sup> To imagine that “we”, *some* of us, I should say, are independent further alienates relationships and understandings between the citizen whose “powers” are within a “normal range” and those who are disabled. To be interested in the problem of justice for the disabled means (or it *ought* to mean), that we already dispense with divisions of this kind. The idea that any of us stands alone in society is manifestly false. No one truly operates that way, within a political system. But, if we theorize the human as a dependent, social political animal, as, say Martha Nussbaum does, we intentionally include the abled and the disabled as in possession of the same essential relations.

Nussbaum’s work is helpful here when it comes to unraveling the picture that philosophy has created in terms of understanding personhood, but also she makes important claims regarding the equality of the external portion of the lives of a society’s citizens; that is, she provides an argument that deals with the external conditions of equality; manifesting these conditions is how a society can evaluate whether or not justice is being done in relation to the disabled. However, one might ask whether the external conditions provide us with an adequate understanding of what *internal* shifts should be made; that is, how do we understand the very ground of equality

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<sup>6</sup> Nussbaum breaks down the understanding of these three conditions as: “*free*: that is, nobody owns anyone else, nobody is the slave of anyone else” (*Frontiers of Justice (FJ)*, 28); “*rough equality* – not just moral equality, but a rough equality of powers and resources” (*FJ*, 29); and, “the parties to the social contract are imagined as *independent*, that is, individuals who are not under the domination of or *asymmetrically dependent upon any other individual*” (*FJ*, 32, last italics mine).

between abilities? It is for this reason that I think it crucial to read Eva Kittay's work as well, since her account provides important insights into the inner structures of our moral, political existence that makes the lives of the disabled understood as importantly relational. And, following Nussbaum on this point, society at large learns something about humanity by being in contact with disabled citizens,<sup>7</sup> learning about compassion and, crucially, the inner attitudes of respect for the needs of everyone; these attitudes help us to see the disabled and abled *alike* should be *understood as dependent, caring, cooperating citizens from the start*. Therefore, injustice where the disabled are concerned, and everyone else, for that matter, is defined as making it difficult or impossible for a given citizen or class of citizens to be in healthy, cooperative relationships that they in part choose.

*Limits of this project and personal bias.*

In what follows, I will not be offering any kind of polemic against one particular dis/ability philosopher or account; rather, I unpack and discuss certain elements, common, at least, in some accounts of political justice where disabilities are concerned. Partly the choice not to offer a sustained argument against anyone in particular is structural, and partly personal. I identify as a disabled person, and I am disabled in more than one respect. There are, as well, generally separated *types* of disability, divided (usually) into cognitive or mental disabilities, and physical, but I will not be asserting anything particular about these divisions. Occasionally, and Nussbaum is one such, who claim that the problem of physical disabilities are easier to deal with than cognitive disability (cf. *FJ*, 99). Again, the account that I want to present here *should* be applicable to disabilities of either sort, given that the claim at bottom is the ubiquity of dependency.

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<sup>7</sup> Cf. Nussbaum, *FJ*, 205-6

Martha Nussbaum and her book *Frontiers of Justice* appears here as the central text both because I think that there are very strong arguments and good ideas put forth, and because, to one extent or other, she discusses each of the elements that make up what I believe is a suitable definition for “dependence” or “dependency”<sup>8</sup>. Ultimately, I believe that Nussbaum fails in her account because she remains committed to many of Rawls’s theoretical structures. Nussbaum’s account *needs* to have an already existing society in order to work. I say this because Nussbaum’s account is designed to show us what state of affairs does exist and what state of affairs *should* exist. Without a society already in existence, Nussbaum has no way to derive the items on her list. However, the list still only considers an external state of affairs and does not require rethinking of theoretical structures in a meaningful way, though this is what she purports to do. What is needed for a new perspective is that we rethink the some of the basic, internal conditions of our equality; not a list that shows where the inequalities are in evidence.

Ultimately I believe that there is a more basic starting point than that there are radical differences in disabilities, just as there are between persons considered abled. Not everyone has, for instance, 20/20 vision; but someone who wears corrective lenses (let us say well before the point at which they are considered legally blind), is not ordinarily considered disabled (though they are certainly dependent on lenses for their daily life).<sup>9</sup> Thus, the language I use here will treat dis/abilities with respect to their being all along a continuum, a spectrum, rather than imagining that there are clearly understood categories that meaningfully (or appropriately) divide human beings into one class or another.

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<sup>8</sup> Nussbaum takes on two other issues in *Frontiers of Justice*, these being species membership and international justice. I shall not be considering either of these issues. The focus is entirely on relations between citizens understood as being in dependent relationships within a given society.

<sup>9</sup> Or, one could use the example Elizabeth Barnes gives that “being a petite woman is not a disability” (17; 20).

*Some basic definitions*

In fact, this project is not concerned to offer and/or analyze a specific idea of what disability is or means. I would, however, venture to offer Barnes' definition as disability meaning that one has a "minority body" (1), to which I would add that have a cognitive or mental disability is to have a "minority mind". Definitions like this can be a kind of thorny area given the myriad of disabilities, and because the starting point of the discussion that follows is the fact that human beings in general are *dependent beings*, I will not be spending a great deal of time on the problem of *who* is disabled. By "valorizing dependence", I mean that *we* (as abled and disabled) share a basic condition; from this condition, through an understanding of its parts (which I have only reduced so far as to be composed of care, cooperation, and dignity) which have been bequeathed to us by means of societies of human beings, combined with what we believe what is an appropriate treatment of free individuals within societies. This is not to say that the account I offer can be used in support of one idea or definition over another, or even that some disabilities are "easier" to deal with than others. It is, however, useful in what follows to have *some* sense of what it means to be disabled; this is because by virtue of being different from, say persons in possession of Rawls's "two moral powers", the disabled experience concretely and often demonstrates the importance of care, cooperation, and dignity.

I endorse, also, Barnes's view that "there's no essential link between disability and disadvantage or stigma" (51). This encompasses the idea that disability is not something inherently bad; that there is nothing *wrong*, in the sense that they *deserve* the disability<sup>10</sup>, with the fact of being disabled. This is not to claim that there is no harm, or no problems with any and all disabilities, but I will discuss more of Barnes' account in the next section.

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<sup>10</sup> My own philosophical commitments mean that I could not, and would not, countenance a position that set out ontological conditions along lines where someone could do something so bad that the universe would repay such ills with a disability; such an idea seems to invoke a kind of magic or a theology that I am not endorsing.

“Dignity” is the other word fraught with peril to define. I shall understand dignity the same way in which the writers of the *Universal Declaration of Human Rights* understand it:

Whereas recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world, [...] Whereas disregard and contempt for human rights have resulted in barbarous acts which have outraged the conscience of mankind, and the advent of a world in which human beings shall enjoy freedom of speech and belief and freedom from fear and want has been proclaimed as the highest aspiration of the common people.

(<http://www.un.org/en/universal-declaration-human-rights/index.html>, emphasis mine).

I take the idea that such “barbarous acts which have outraged the conscience of mankind”, to be indicative of a lack of respect (recognition) of the “inherent dignity” of the human being. That is, that ignoring the rights which we think to be “universal” reflects an attempt to treat without dignity a person or persons. Dignity, therefore, is intimately connected to the idea of *treating* someone with dignity; more on dignity in a section to follow.

### *Order of events*

To begin, then, I offer a short sketch of the disabled experience (section ii)). I do this in order to demonstrate some of the ways in which the disabled experience is simply one form of the human experience, but also to show how disability and dependency demonstrate a positive relationship that can be extended throughout the ability spectrum. There will be a short discussion of some Disability Studies literature. In section iii) I will examine the concept of dignity and the way in which it is particularly social in its application and worth. Following that, section iv) will be concerned with the notion of care, of its importance both to the disabled and to our conceptions of what it means to be human in the first instance. Section v) will then be focused on cooperation, on what it means to be in cooperation with the disabled, and how we can understand various forms of cooperation and their contributions to the social product. The last few sections will be divided into vi) which articulates (re-articulates) an argument as to why we should

accept, and begin our social justice accounts from the perspective that all of us are dependent;  
vii) will address potential objections to the project as I have laid it out. Finally, there will be a  
brief conclusion (viii).

ii) *The disabled experience*

In this very brief section, I would like to bring to the fore the notion of the disabled experience as a place *with possible positive experience in the human realm*. That is, that there is nothing essential to the disabled experience that makes it bad. This section will be broken into two parts: the first, part a), will bring to light some of my own experiences as a disabled person, as well as some discussion from a philosophical perspective on disability; part b) will discuss some of the literature from Disability Studies in order to demonstrate some of the concrete problems and solutions from the perspective of the disabled, and to make the construction of the problems from as broad a range as possible.

a) *Philosophy and personal disability*

If (my proposition goes) the experience of disability is indeed the quintessential experience of human dependency, and, furthermore, if dependency is not a *negative* facet of human experience, then the disabled experience *is not a negative experience*, or, at any rate, it does not *have* to be negative; it is/should be only another experience. Drawing here, over the next few paragraphs, on my own disabled experience, and on the work of Elizabeth Barnes and others, I want to paint a picture of the disabled life, the disabled experience to place the rest of this paper in context. The proper force of my argument is to see dependency the way in which we see the term *support*, for instance: it is a fundamental (and appropriately so) propping up of each other that happens, in some form, in *every human existence*. Independence must always be qualified, where dependence simply is the basis of our connected existence within society.

Barnes, in her work, *The Minority Body*, begins a “personal”, though no-less-philosophical, project (ix). It is from this personal perspective (Barnes has Ehlers-Danlos syndrome) that she begins to work away at changing the value-judgement issues inherent in trying to seek out a positive, or at least not *bad* characterization in the face of a tradition that sees the less-than-rational, the less-than-independent, as unfortunate, as negative, as tragic. I want my paper to be part of this larger project, but also as part of an initiative on the part of myself, as a disabled person (and a citizen) to create an understanding that is informed by experience with the subject at issue. This is *personal* philosophy in the sense that I have a point of view on the subject, not “personal philosophy” in the sense that “you may do as you wish, but my personal *philosophy* is different”<sup>11</sup>. So, *I* have the experience of being a fully dependent individual, all my life. Why should I not have something to offer to the discussion of disability? Moreover, one of my disabilities in particular (the hearing-impairment) has not been the kind of disability that I would characterize as in any way detrimental (health-wise), perhaps aside from the expense of hearing aids. Although I miss a great deal of the subtleties of audio experience, it is indescribably pleasant when I take my hearing aid out at the end of the day and the whole world goes quiet. It is easy to let go of the noise of the world; it is easy to just relax into myself and ignore all other distractions, or traffic, or dogs barking.

We might ask, however, whether or not there is any essential connection between disability and dependency? Or, what reasons might there be for considering the potential existence of such a connection. I *depend*, for instance, on my hearing aids to fill in most of the blanks in my world. As someone with a neuropathy, I *depend* on certain medications to reduce the pain I experience, as well as to try to keep the regressive nature of the condition at bay. Of course for both I require a lot of support from medical professionals and this, too, is a

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<sup>11</sup> Barnes declares that “philosophy needs the voices of those who are personally invested” (x).

dependence. And there are dependencies created in other disabilities that are even easier to imagine. A person with no legs *depends* on her wheelchair to get around. A blind person *depends* on her seeing-eye dog to get her safely across the street. There is, of course, the way crutches, very literally, *support* those who cannot hold their own weight unassisted.

Why should any of this be considered in a derogatory fashion? Because we have accepted the tradition that tells us that independence, “standing on one’s own”, etc., are the standards to which we ought to strive. To be dependent is to be *weaker, lesser, asymmetrical*. I believe it can be all of these things and still constitute a positive thing in our lives. Thus, the disparagement of dependency seems to be related to the (unequal?) assumed privileging of the concept of *independence as such*. If independence is to be valorized, aspired to, then dependence must be avoided. It is *bad*, a negative consequence borne out in the fragility outside of the “ordinary” frame of existence. To be very explicit, then, the idea is that to be abled, in so far as that is supposed to be “normal” (and, dare I say, also *desirable*), is connected to the idea of independence, also “normal”. To see an example of this, we need look no further than Rawls’s “subjective” conditions of justice, the ways in which a certain level of ability is to be assumed of citizens (cf. *Theory of Justice (TJ)*, 109-10). Therefore, again, if one assumes the connection between the “abled” and independence, to be disabled is thus connected to dependence.

However, as Barnes puts it, disability “is something that makes you different from the majority, but that difference *isn’t by itself a bad thing*” (6, emphasis added). I want to continue in this kind of vein: dependence is not, by itself, a bad thing. Part of the problem, part of what makes it so imperative to continue in a vein that does not make disability/dependence bad in itself, comes from a reduction in one’s status as person; in one study, for example, the authors write, “Accordingly, the injured body represents a retreat to a childish, pre-sexual and dependent

state, with a limited ability to make choices.” (Agmon, Sa’ar, and Araten-Bergman, 8). But we do not have to perpetuate such an image. In fact, I believe that if we reason from dependency as a basis, we will uncover a rhetoric that is far more inclusive than not.<sup>12</sup> And *we* need to be inclusive because the disabled have a voice, too. Disability is a frame of *human* existence. I emphasize the human because, as Eva Kittay declaims, people have sometimes compared the disabled experience with other animals (cf. “The Personal is Political is Philosophical: A Philosopher and Mother of a Cognitively Disabled Person Sends Notes from the Battlefield” (“PPP”), 610). I call it a frame because though the choices are different for those of us who are disabled, it does not follow that all of our *human* choices are taken away.

Take my own case. I have a rare and painful nerve condition called sensory neuropathy or ganglionopathy (AAG). The nerve endings particularly in my hands and feet have been exposed by my immune system attacking them. At any given moment in the day, somewhere in my body is some kind of pain. I especially experience constant pain in my left leg and the left side of my back (I have no idea why); this can make walking very difficult. Add to that the fact that the sensation of numbing or pins and needles in my hands and feet, and it can feel like the room is constantly shifting on me. Very disorienting. I have learnt to keep getting out of bed in the morning, no matter how painful that might be. And though I have been working in a physical occupation for a number of years, I can no longer *reliably* count on my body to perform labour standing up for my entire day.

But as Harriet McBryde Johnson writes, “Those disabled later in life adapt. We take constraints that no one would choose and build rich and satisfying lives within them. We enjoy pleasures other people enjoy, and pleasures peculiarly our own. We have something the world

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<sup>12</sup> Including a change in our perceptions: as Agmon *et al* write, “...an open and fruitful dialogue and expanded perception of the ‘person’ releases persons with disabilities from the cage of stigmatization, universal assumptions and cultural constructions” (10)

needs” (cited in Barnes, 138). These words are true. There is a sense in which something from my past life has died (i.e., pain-free movement); but there is equally a sense in which a new life is born. Yes, my choices are put to me in the scope of a different situation, but, pain-filled as it is, it is a life for all that, and that means that I am still presented with opportunities to choose, act, and, above all, relate with others.

I keep getting out of bed.<sup>13</sup>

Barnes cites Rebecca Atkinson who writes, ““If this experiment of going blind has taught me anything, it’s that what you lose in one place you gain elsewhere, and while a blind life is different than a sighted life, it is not lesser”” (97). The idea that a disabled life is “not lesser” is one I want to stress here. Any given person might have some sense, some ability that they currently treasure above all others. When that sense or ability is gone, sometimes violently removed, is the *human* portion of life over? I think not, however much one might have to adjust and realign their life goals to contain new choices that must be made. So what I want to stress in this short section, is that *if* the experience of disability *represents* the prototypical *dependent* life, it is not for all that a *bad* life, and most assuredly not a lesser version.

#### b) *The Disability Studies perspective*

The problem of recognizing and dealing well with the exclusion of those with disabilities can be, in some cases, construed as a cultural phenomenon, not merely a personal one. Indeed, one group of researchers, Ma’ayan Agmon, Sa’ar, and Araten-Bergman, conducted a study at a day care

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<sup>13</sup> Which is not tantamount to the claim, as Barnes notes that some “high achievers” might make, that “I’ve never thought of myself as disabled” (34-5). I am very conscious of my disabled life and I do not hate it. But it is, very definitely, different from that of those who experience no difficulty walking or running, or who love exercising for long periods of time; I choose from a different set of choices, equally fulfilling to me.

facility in Israel. They state, for instance, that “The findings reveal that the adult person in Jewish Israeli culture is expected to be physically flawless, to function independently and be in full control” (Agmon *et al*, 8). This makes it difficult, to say the least, for some disabled persons to be seen as *adult* persons, rather than a persistent characterization as “childlike”; Agmon *et al* write, “Talking about the body established a new discourse on the person, revealing that the disabled body created an impaired, childlike, dependent self that lacked elements of sexuality and was deprived of its previous functions, such as in the area of gender” (4).<sup>14</sup> Of course, this sort of characterization, not always taken on intentionally by the disabled person, does not feel positive; in some cases, the people volunteering at the day care center would do things that the disabled person *could* in fact do, and this would negatively affect the disabled persons’ self-image, and would result in a perpetuation of the disabled person’s exclusion (Agmon *et al*, 5-6). This is not the sense in which I want to think about dependency, however; that is, I do not think of it as if it were merely a matter of *doing* things for a person, or kind of person, cannot. We do not need to exclude people by forcing a helplessness on them. That helplessness can be a form of exclusion.

Exclusion of the disabled, however, can take many forms. This is something that is bound up, for instance, in the social model of disability.<sup>15</sup> Heikki Ikäheimo makes sense of a kind of exclusion by discussing what it takes in order to be *seen/acknowledged* as a *person* (not a mere human being), something that may happen to persons with different kinds of impairments.

Ikäheimo argues “that one of the important and distinct aspects of social exclusion is precisely

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<sup>14</sup> This is not unique to the Israeli experience of disability, however. For instance, Hui Yu Kou, whose work focusses on the older disabled population in the UK, writes, “Consequently, people with impairment are usually regarded as passive, vulnerable, and needing to be looked after by others” (24). This paternalizing perspective does not help disabled persons regard themselves, or feel that they are treated with equality.

<sup>15</sup> This model can be understood as “The social model of disability holds that many persons are impaired in many ways, but that it is only by society that they become disabled. People are impaired, but society disables” (Bolt, n.paged).

lack of recognition and therefore exclusion from interpersonal personhood in the concrete contexts of social life” (n.paged). This means that it is important, for the purposes of inclusion, that the disabled be recognized and treated as *persons*. Ikäheimo further states that

[He] believe[s] that the experience of exclusion from full personhood in question is perfectly rational, perfectly literal and to be taken very seriously. What is lacking here really is one of the components of what it is to be a person in a full-fledged sense: interpersonal personhood. In other words, what is lacking is that relevant others should see you (at least to an adequate degree) in the light of person-making significances and that you should thereby count in the concrete contexts of interaction with them as a person who has authority, a seriously taken claim to happiness, and/or something gratitude-worthy to contribute. (n.paged)

Thus “interpersonal personhood” is essential for the disabled person to be treated as a person, so they remain connected to society by the very act of society recognizing them. The kinds of effort, however, we would have to make to make a shift in this kind of exclusion likely require society-wide attitudinal shifts. We have to demonstrate and continuously reinforce the idea that *all* disabled persons are *persons*.

This is so important because how society at large sees disability, how it defines it can make a big difference in the way disabled persons can conceive of themselves. Regarding the “medical model” of disability, for instance, Hui Yu Kou remarks that “Being seen as a the object of medical treatment evokes a negative image of disabled people, such as weakness, helplessness, dependency, repressiveness, abnormality of appearance and depreciation of every mode of physical and mental functioning” (16-17). In a similar vein, it matters how we construe the notion of what we think disabled persons *can* do, in terms of forging a life of their own. Kou contrasts, for that reason, the idea that some disabled persons have suggested that what has been termed the Independent Living Movement could be called (better) “integrated/inclusive living” which “defines all humans, regardless of the degree and nature of their impairment, as interdependent, while a truly ‘independent’ lifestyle is inconceivable” (22; cf. Beresford, 10).

The Independent Living Movement, and the social model of disability have, however, radically altered the way in which disabled people have begun to demand a kind of equal recognition (cf. Morris, 20-1). Jane Campbell writes, “We challenged society's misrecognition of our identity, casting off labels of flawed, incomplete, tragic, brave, vulnerable and victim, and demanding the creation of a society in which all disabled people could participate fully as equal citizens” (3-4).

Campbell notes, however, later in her lecture, that “without transformative public services which enable disabled people more choice and control, we will never fully overcome our social inequality. We will continue to be viewed as vulnerable people in need of care, instead of active valued citizens in charge of our own lives” (8-9). This is a reason to keep talking and writing on equality, to keep it uppermost in our minds and to continue to envision a world where disabled persons are treated as equals. Furthermore, Campbell says, “To achieve independent living, we need to engage in the practice of interdependent living” (14). This sentiment is part of what motivates my own project; I want to contribute to a dialogue on how we can treat each other, and thus ourselves, through a recognition of practical concerns vis-à-vis our theoretical understandings.

Tom Shakespeare writes, concerning the goal of achieving “independence” for the disabled, that “The crucial move is not just to recognise that everyone has needs, but to break the link between physical and social dependency” (n.paged). This construction, this concern that what the disabled really require *is* independence, which is of course qualified, rather than seeking dependence for all might be a real concern in practice. It may be that the sense that independence is a way of living for disabled persons, a way in which they feel that they can be considered and seen as active citizens in our societies, is a pragmatic need. But I will argue, in the sections that come after, that we still need an equalizing position/perspective that recognizes the spectrums

that connect us all. Foundationally, this is what I believe dependence is, but here is not the place to explore this.

The attitudes of society, not merely the tools and support we need to be active in society, towards disabled citizens need to be shifted. In an article in which she argues that the social model of disability can help us do this, Jenny Morris writes, “We can’t get equality or a good quality of life unless we are given entitlements to different treatment - to changes and resources which enable us to get equal access - to jobs, to housing, to leisure and political activities, and so on” (24). This requires, I think, the concerted efforts of the civil rights movement, certainly, but also needs to shift in the rhetoric our politicians use and the way they go about framing policy so that the disabled citizens’ participation, by an increase, demonstrates such a shift to the average citizen.

This has not been intended to be an exhaustive exploration of some of the concepts from the Disability Studies standpoint. However, I hope that it has demonstrated that there are different perspectives, and that disabled experience does not have to be a negative thing; certainly there have been many factors, ideas, and attitudes that have shaped the *negative* forms of disabled experience, but we need to continue to discuss these things, making shifts as best as we can. I now consider the idea of dignity as a moment of dependency.

### iii) *Disability and dignity*

Dignity, human dignity specifically, is not an easy concept to nail down, and some, like Nussbaum, believe that it works well for her approach because of its fluidity (cf. *FJ*, 162). It is, as Pia Matthews says, “a perplexing notion”, understood in a variety of ways; for the purposes of this project, though, dignity shall adhere to the human individual because “it can embrace the attitude of respect that is owed to every human being simply because he or she is human” (Matthews, 185); I will add that dignity belongs to human beings, or to any creature, *by virtue of the fact that we are in a relationship*. However, there is one major hurdle that needs to be addressed: this is because to claim that dignity belongs to the disabled just as much as it does to the abled citizen *is* a contentious claim. There is a historically a connection (for instance, Kant, in the *Groundwork of the Metaphysic of Morals*) between dignity and rationality (cf. Ak. 4:437).

But I believe that we can understand dignity as being thoroughly a social concept; or, at least, we can understand that it has the property of being distributed to all humans *whatsoever* on the grounds that we envision a society wherein the human *in all its forms* is respected. I hope that this will help clear up some of the perplexity regarding this notion.

The idea of human dignity is foundational in Nussbaum’s work concerning political justice and the disabled. As she writes at the start of her chapter on capabilities and disabilities, “Failure to secure these [fundamental entitlements] to citizens is a particularly grave violation of basic justice, since these entitlements are held to be implicit in the very notions of human dignity and a life that is worthy of human dignity” (Nussbaum, *FJ*, 155). These entitlements are the “Central Human Capabilities”<sup>16</sup>, a list of capabilities that puts forth the things that people need in

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<sup>16</sup> Nussbaum’s list, while not touching on the problem facing this essay, does have its own set of problems with regards to the notion that it can be the result of an overlapping consensus. Nussbaum writes, “Although, as a type

order to live decent lives in society with justice. On the capabilities list are such capabilities as being able to live with one's bodily integrity intact, the ability to form relationships with others, with animals, being able to play, *inter alia* (Nussbaum, *FJ*, 76-8).

That dignity is important to Nussbaum is, in itself, not an issue. What is problematic, and problematic for other scholars as well (cf. Vorhaus, 470),<sup>17</sup> is that there are many different senses that Nussbaum seems to employ. For a concept, however abstract, that is so crucial to Nussbaum's work in *Frontiers of Justice*, one might wish that there was more stability to be found in the grounding idea. Nussbaum, for instance, uses dignity in the sense that it is i) something we ought to respect (e.g., *FJ*, 129); ii) as an "intuitive" starting point (e.g., *FJ*, 74); iii) as the rationale given in support of a particular principle (*FJ*, 91), and there are possibly others. A concept would have to be strong indeed to render itself well in all these different functions. Whether or not Nussbaum's account actually is able to depend on dignity to fulfill these different roles will be taken note of after a greater explication of the idea of dignity, and, of course, there will be the idea of dignity as I think we ought to employ it in such a way that it makes sense to include the disabled as well under its umbrella. But, first, let us continue to look at what ideas are attached, or could be attached to our understanding of human dignity.

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of political liberalism, it [the capabilities approach] eschews reliance on any deep metaphysics of human nature, it does operate with a conception of the person that it develops for political purposes, a conception that can, it is hoped, be the object of an overlapping consensus" (*FJ*, 86). However, John P. Clark argues, "It would seem that what is needed is a convincing presentation of the grounds for the normative force of Nussbaum's list—a kind of metaphysics of morals, which is what she gives us in any case, but one that is assumed on the basis of its alleged 'reasonableness' rather than defended on the basis of rational argument and empirical evidence" (590). And Eric Nelson notes, "The list hands down rulings on a vast array of questions in moral philosophy, and there is certainly no sense in which it is neutral with respect to the good. It is not rational to want the things on the list 'whatever else one wants.'" (99). The list of capabilities, then, is not unproblematic, and has issues all its own; I offer these citations as a glimpse of such issues.

<sup>17</sup> Vorhaus's article canvases the idea that Nussbaum's conception of dignity can actually support the entitlements she claims extend from them; but, Vorhaus writes, "There are numerous conceptions of human dignity, and one reason for the difficulties I have discussed is that Nussbaum does not clearly distinguish between them. And, however defined, human dignity is also made to carry a considerable burden, supporting a set of entitlements that apply to all citizens" (470).

The capabilities list put forth by Nussbaum establish the conditions (goods) that an individual requires, within a given political structure (i.e., liberal democracy), in order to live with a sense of self-respect, flourishing, and opportunity. Of course, for Nussbaum, these things are part and parcel of the whole idea of dignity; as she writes, “Dignity is not defined prior to and independently of the capabilities, but in a way intertwined with them and their definition” (*FJ*, 162). Here we can see how Vorhaus’s complaint is vitiated. Why not rather sketch out, as precisely as possible, the sort of role that dignity plays in her work and thus a clear definition?

Dignity itself is supposed to be attached to the human being, but we know that Nussbaum is not interested in having an idea of dignity such as that put forth by Kant.<sup>18</sup> Kant, writes Nussbaum, “contrasts the humanity of human beings with their animality” (*FJ*, 159). This means that Kant thinks there is something *in* humans that is not, obviously or evidently, found in other sentient creatures. So the idea persists since Rawls, according to Nussbaum, assumes that “personhood reside[s] in (moral and prudential) rationality, not in the needs that beings share with other animals” (*FJ*, 159). Nussbaum, however, sees need as stemming precisely from the part of the human being that is animal.<sup>19</sup>

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<sup>18</sup> Kant writes, in the *Groundwork for the Metaphysics of Morals*, that “Autonomy is therefore the ground of the dignity of human nature and of every rational nature” (Ak. 4:437). Further, he writes that “it also follows that this dignity (prerogative) he [every rational being] has over all merely natural beings brings with it that he must always take his maxims from the point of view of himself, and likewise every other rational being as lawgiving beings (who for this reason are also called *persons*” (Ak. 4:438, emphasis mine). Perhaps, though, it needs to be understood why Kant might term the disabled (probably, in particular, the cognitively disabled) as “irrational” or why they would be outside the realm of rationality as integral to morality. Given how Kant describes the way humans give themselves laws (“This will is thought as a capacity to determine itself to acting in conformity with the *representation of certain laws*” (Ak. 4:429)), it does not seem to follow that the disabled *cannot* or *do not* act in this way. But further investigation into this problem would begin to take this paper far off course, at least if we were to be understood as arguing against a particular form of characterizing the abled (as rational to the exclusion of the disabled). This issue may be resolved unintentionality or through examination of other concepts.

<sup>19</sup> Which gives rise to another question posed by Vorhaus: “It is unclear why dignity resides in human need; where is the dignity inherent in the need to breathe, or to defecate?” (466). I, too, am not certain how to allocate dignity to anything “inherent” in the human without understanding it as something that is achieved once in society/relationships. Prior to that point, it appears that the idea of dignity resides in preternatural determinations or in the idea of a deity gracing her creatures with some characteristic feature, neither of which seems to be a

Instead, as has been mentioned, Nussbaum contrasts Kant with Aristotle's idea of the "political animal", and Marx's idea that there are many things that humans need in order to *be* human. Furthermore, Nussbaum argues that "the specifically human kind [of dignity] is indeed characterized, usually, by a kind of rationality, but rationality is not idealized and set in opposition to animality; it is just garden-variety practical reasoning, which is one way animals have of functioning" (*FJ*, 159). Nussbaum is not about to deny that human beings have such a thing as rationality; but she is willing to reduce its importance where dignity is concerned so that it is not understood to be *the* crucial aspect of the human. By calling rationality "garden-variety practical reasoning", Nussbaum acknowledges what rationality is for, but she is also suggesting that it is not the key component by which humans give themselves dignity. Nussbaum is stressing here the fact that we need not find that dignity only inheres in those human beings who have full use of their rationality; some individuals, who do not seem to present this feature of human life, might be excluded if we attach personhood to the use of rationality. This means that it should not be the feature by which we ascribe or hand out dignity to citizens in society.

After all, as Nussbaum notes, "Sociability, moreover, is equally fundamental and equally pervasive" (*FJ*, 159-60). It is this fact, I believe, that leads us to a better understanding of human dignity. Kittay thinks, for instance, that "The *moral subject* is conceived as a relational self, one that is constituted in part by relationships important to a person's identity" ("The Ethics of Care, Dependency, and Disability" ("ECDD"), 53). That identities and self-consciousness are attached to the notion of sociability is not a new idea in philosophy. Indeed, Hegel and Sartre, for example, both discuss ways in which the interaction with others informs our understanding of

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concept that can be unproblematically applied within the context of an argument that seeks to place some distance between itself and the need for "deep" metaphysics.

ourselves and our identities. This is, I believe, key to our conceptualizing a society that sees all of its citizens possessing dignity.

The concept of dignity *requires* interpersonal relations. Imagine, for instance, that a human being is alone, on a desert island; she has enough to eat, and drink, and maybe there are some animals that she forms a kind of relationship with; but her world is for all intents and purposes empty of any and all human relations. Say we accord *all human beings* dignity by dint of their rationality; this, of course, means that our single human on an island is possessed of a dignity, supposing that she is rational. Does dignity matter to this person, who may, let us stipulate, find herself content and not lonely for all that her situation might seem to indicate this? Loneliness, after all, requires the notion having a relationship in the first place, or desiring one, but conceivably our single human being wouldn't be aware of what it would be like to have relationships with another individual. Would she still conceive of herself as someone who has a dignified life? Would it matter if she announced her dignity to the trees and plants and animals also occupying her island?

I suggest not. Dignity should be understood in terms of how people *relate* and *treat* those with whom they have relationships<sup>20</sup>. There is no humiliation apparent for the person on a desert island. Who will humiliate her? Who will treat her in such a way that she feels her dignity wounded? No one. Without the inter-human relationships to give it meaning, dignity is not a concept that makes any sense.

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<sup>20</sup> This is not to claim, necessarily, that all other accounts of dignity are to be regarded as false; take for example Matthews's claim that "In Christian theology, natural human dignity begins in creation when God creates all that there is and all he creates is good" (194). This claim is not necessarily disjunctive to my own claim; but, given that in a liberal society we consider claims made from a religious perspective as not the right sort to base policies on because, ostensibly, an atheist will not agree with Matthew's idea of dignity; but will the atheist therefore be claiming that people *do not* have dignity? I think this is not necessarily the case.

In an earlier work, Nussbaum characterizes dignity in the following way: “The core idea is that of the human being as a dignified free being who shapes his or her own life in cooperation and reciprocity with others, rather than being passively shaped or pushed around by the world in the manner of a ‘flock’ or ‘herd’ animal. A life that is really human is one that is shaped throughout by these human powers of practical reason on sociability” (Nussbaum, *Women and Human Development (WHD)*, 72). Thus, without choice, without some control over what happens in our lives, we would regard ourselves as seriously restricted. Disabled lives, in some cases, are doubly restricted in this sense: on the one hand, if a disabled person (what disability it is does not really matter here) is allowed no choices in respect to how she will live out her life, and meaningful choices including, say, whether or not she is to receive an education, then we will think that something unjust has been done; that is, that because her choices have been restricted, she is living a life where injustice reigns; she will not have a full-spectrum of choice before her.

However, it is not choice *simpliciter* that appears in a just society as protected. As Nussbaum writes in a later paper, “The intuitive idea of a life with human dignity already suggests this: people are entitled not only to mere life but to a life compatible with human dignity, and this means that the relevant goods must be available at a sufficiently high level” (Nussbaum, “The Capabilities of Those With Cognitive Disabilities”, 335). Returning to the example above, we are now led to postulate that it is not sufficient, to find human dignity in these cases, that it is not necessarily just to throw someone like Sesha Kittay, a woman with severe intellectual and physical disabilities, into school for 12 or so years and then see where she lands when she leaves (whether she matriculates or is simply done); it seems that something like

the Individualized Education Program in the USA,<sup>21</sup> where the child's needs are assessed ahead of time and a plan worked out to help them achieve this, whatever education achievement is attained, this would seem to be the way to work at making sure that this disabled individual is impacted by "goods at a sufficiently high level".

Here, again, though, we must remember that Nussbaum thinks that "the capabilities are not understood as instrumental to a life with human dignity: they are understood, instead, as ways of realizing a life with human dignity, in the different areas of life with which human beings typically engage" (*FJ*, 161). Such seems essentially to be the case with a list that includes, for instance, "life"; *bare* life does not seem to conjure up the expectations we have of a "flourishing" existence, or, really, any kind of existence that goes beyond basic functions like eating and breathing; of course *social* life, life in a political society includes more than this, and we expect that it would. Consider that if we were to think alongside the classic social contract thinkers anyway, we think it would be infinitely superior for us to be engaged in cooperative, social living with others than be stuck in the "state of nature".

I am not certain that dignity can do the work that Nussbaum has set for it; I worry that, without an appropriate definition, without an understanding of how or why we should attach dignity as such to human individuals, it appears that Nussbaum is making metaphysical claims which she does not explain adequately and, possibly, therefore could run counter to her commitment to political liberalism. Truthfully whether or not she is making a metaphysical claim, Nussbaum might claim that it is a "soft" one; that is, that there are many sources (philosophical, religious, political) which acknowledge and use the idea of dignity (the *Universal Declaration of Human*

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<sup>21</sup> The definition of this program is cited by Nussbaum as "a written statement for each child with a disability that is developed, reviewed, and revised" (in *FJ*, 205; see also Ladenson, 275)

*Rights*<sup>22</sup>, for instance). However, even if one objected to Nussbaum's use of dignity *as a metaphysical concept*, I believe such an objection could be answered and would not be fatal to her argument as a whole in any case; one could, and should, in my opinion, recognize that dignity is *socially conferred* on the individual. That is, once again, dignity has no use if it does not obtain within social structures and relationships. We can decide, agree, or convene ourselves in such a way that we say which acts *attach to the dignity of the individual*;<sup>23</sup> that would be to ask which actions, between individuals or groups, are ones that reflect that a person has dignity? Which actions are shaming or humiliating, are harmful, or constrain a person's fundamental freedoms? If we decide, and I believe we should, that certain actions (say withholding the vote on the grounds of one's gender or race or perceived intellectual ability) are politically and personally harmful and do not reflect the fact that those persons are in possession of dignity, then we should be able to condemn such treatment. Human dignity, therefore, can operate as a social concept that gets its foundation from the fact that persons agree that there are ways in which we can treat individuals that does *not* respect their dignity, giving us a kind of yardstick to see what might be properly attached to the concept;<sup>24</sup> as I believe that we have a use of it at all is in virtue of our being in a social situation, I can argue that therefore there is a conception of dignity that adheres to the human. This concept is not dismissive of comprehensive ideas of what dignity is or how it obtains; but I would argue that some without strong comprehensive views (about where dignity comes from) therefore could see the virtue in establishing dignity in such a way.

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<sup>22</sup> See, for instance, the "Preamble" cited in section i).

<sup>23</sup> Caroline Harnake, for example, in her discussion of "The Ashley Treatment", remarks that "There is still a third way in which Ashley could be seen as endowed with dignity; Ashley could be seen as having dignity because others recognize and value her" (147). I believe this way, rather than, say Matthews's theological perspective (cf. 194-5), is less problematic in terms of Nussbaum's commitment to political liberalism.

<sup>24</sup> Which would be a negative way to define dignity, but not, for all that, detrimental to the concept. That is, I think it is a practical proposition, without which one has to have recourse either to an already existing idea of dignity and where it comes from, or we are left with a fluid concept that cannot be specified beyond the claim that it is manifest through a list of central goods (i.e. the list of human capabilities).

One reason that I believe such an idea, such an understanding would be suitable for Nussbaum's project is precisely because she does not find a role for the "state of nature" fiction that other social contract thinkers have used in order to demonstrate the reason people get into society together. Since Nussbaum is not certain that there remains any use for the notion of the state of nature (cf. *FJ*, 158), she (and we) can approach the issue of justice for the disabled within *an already existing society*, whether the "Well-Ordered Society" Rawls envisions or some other model of liberal democracy, we are able to insert new definitions of the person without being constrained by a procedural account. That is, since Nussbaum posits the ends of society first, the "outcome", then imagines what it will take to get to such a result, she is free to offer an account of what dignity entails accruing to the notion that the disabled citizen is in fact a person deserving of justice. We might even make use of an existing society and point to those factors we believe should be changed in order that justice will be done.

Having discussed the notion of dignity, opening it up in a socially defined space whereby we can be as unrestricted as we like in saying whom has dignity (i.e., all human citizens), and avoid deep metaphysics or comprehensive doctrines (should we be concerned about this). By addressing dignity and how it can attach to all human citizens, we have found no reason, for this reason, to withhold justice from the disabled. This is, however, only one component of the pie we have begun to bake here. Social attitudes toward the disabled still need to be addressed and changed in those areas where the disabled are treated as though they were some kind of inferior life form. Since it is unacceptable for the disabled to be treated as "less than", we need to then examine two other important realms in which the image of the disabled is fleshed out and we consider them as important citizens with something to offer. The areas of care and cooperation,

therefore, need to be examined; understanding these concepts and understanding how these crucial areas are in terms of *every citizen's* life.

*iv) Care and the Citizen*

Important for theories of justice, Nussbaum writes, requires recognizing and “appropriately supporting the labor of caring for and educating [persons with disabilities]” (*FJ*, 99). The need for care, for addressing our fundamental animal requirements and our need for social development, is a way both of urging for justice and recognition, but also of determination of a condition that attaches to all human citizens, disabled or not. In fact, as Kittay argues, care is a pervasive fact of all humanity, but of course it is a lifetime requirement for those in society that have disabilities (cf. “ECDD,” 54<sup>25</sup>). But this should not denigrate the concept of care; rather, this should make us think all the more highly of the persons who do such caring, and the ones being cared for. To disparage caring, then, is to marginalize the persons who require such care from the very moment of their birth<sup>26</sup>.

The issue of care is a double-pronged issue. On the one hand, there is the cared-for, of course, here represented by the class of disabled citizens (in general); some disabled citizens, for example those paralyzed below the neck, or those whose physical development has been so severely interrupted by their cognitive impairments that they cannot bathe or dress themselves without help, probably need more care than some persons with other disabilities might require (for instance, the hearing-impaired, who, in the main, require just hearing-aids and attention to ear health). But, care is, as Kittay suggests, not limited to the disabled: it is a ubiquitous feature

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<sup>25</sup> Kittay writes, “The disabled person occupies what is surely a moment in each of our lives, a possibility that is inherent in being human. From this perspective, we reason that our societies should be structured to accommodate inevitable dependency within a dignified, flourishing life—both for the cared for, and for the carer” (“ECDD”, 54). This would be one way, concretely, to establish a unity (or continuity) between persons as abled and disabled, to recognize that there will be a point at which each one of us, should we live long enough, will need another person’s help to get through our daily lives.

<sup>26</sup> Michael Bérubé, for instance, in his book *Life as We Know It*, describes in all its gory details the number of persons and equipment and hours of time that go into his Down’s Syndrome child, Jaime, from the very first moments of his life (cf. 5-12).

of existence. Perhaps from pre-adolescence to old age we consider the average human able to care for themselves, predominantly; this does not negate the fact that every infant that makes it into pre-adolescence had to have care of some sort to get there. The elderly, of course, require more help, too, as they get nearer death, or they become very ill because of their age/other conditions.

The issue, therefore, of care is to make an issue out of something that is a common, indelible fact of humanity. The other problem, which Nussbaum mentions, though I believe it too will be resolved as the idea of care is unpacked, is that of those who do the caring and their relations in society. Nussbaum writes that “These people need many things: recognition that what they are doing is work; assistance, both human and financial; opportunities for rewarding employment and for participation in social and political life” (*FJ*, 100). I count this issue, justice for the caring, as bound up and resolved if the issue of the disabled receiving justice on the grounds that they are *dependent as everyone else is*. It may be true that it is a separate issue, one tied into other social shifts, but, as I have pointed out above, in a story that only excludes those who cannot participate at all (those in a persistent vegetative state, for instance) as human, with a story that connects us all on some kind of spectrum, it would be absurd if the disabled received justice and those doing the caring received none. Further investigation at this point in the present paper, however, would be to digress rather far from the focus on dependency and its moments.

Returning to the issue of care, Nussbaum tells the story thus: “Human beings begin as needy babies, grow up slowly, and require lots of care as they grow” (*FJ*, 87). In other words, no human being can live their life without care from other individuals. True, there is a large space within which, provided one escapes any injury or severe illness, some persons might be said to be more independent than others; this is fine, so far as it goes, though still not completely true

since even these few still depend on others to produce the things they do not make or grow themselves. Even if it were true that *some* (very, very few, I should think) get by making their own clothes, building and maintaining their own house, and growing or hunting for all their own food, etc., it would still be true that these people required the care of others to bring them into adulthood. Thus nobody gets away without needing any care whatsoever over the course of their lifetime, also, as Nussbaum points out, “If [people] live to old age, they typically need a great deal of care again and are likely to encounter disabilities, either physical or mental or both” (*FJ*, 88), leading, perhaps, to the *a propos* phrase that would have the non-disabled termed the “temporarily abled” (Kittay, “ECDD”, 50, though I am not certain that it was Kittay who coined the phrase).

The point is that everyone needs care, not only the disabled; however, the need for care seems to show up in sharp relief when we discuss the case of the disabled (cf. Nussbaum, *FJ*, 178). And, arguably, it is a crucial issue for the disabled since there is no way of getting around it for those who are disabled for life. It is not the case that we may forego childhood requisites of care, in the disabled case simply because disabled citizens will need special care to some degree through their whole lives; but the continuity through the life-cycle, the fact that everyone will need care at some point, ought to make us think that the continuity crosses the spectrum of abilities, too. That is, that not only is care not specific to time of life, but it also that people in the so-called “normal” range of abilities need care, even should we think that they will need less of it in their “prime”.

The above is essentially the extent that Nussbaum has to say about care in *Frontiers of Justice*, and, so far as that is concerned, she has offered at least an account we can agree with

fundamentally. All citizens require care. Care is important, especially in the realm of disabilities. So far so good. However, Nussbaum offers a brief criticism of Eva Kittay's project, claiming that Kittay's perspective does not move the chains, so to speak, for the political recognition of the disabled: Nussbaum says,

Kittay's central suggestion is that we ought to add the need for care during periods of extreme and asymmetrical dependence to the Rawlsian list of primary goods, thinking of care as among the basic needs of citizens. This proposal seems reasonable enough, if we are thinking of the project as simply that of making a list of the most important social benefits that any real society must distribute. (*FJ*, 140)

Furthermore, Nussbaum worries that Kittay's theory "does go in an anti-liberal direction [...]" Presumably Kittay's state would attach far less importance than a liberal state to fostering independence, political participation, and the ability to make choice with regards to employment and way of life" (*FJ*, 218). I think there is no "presumably" about it; it is true that Kittay would have us entirely rethink our paradigms of independence and autonomy. Kittay responds, in a fashion, writing "Let me say [] that a theory of justice based on capabilities avoids some of these difficulties [criticisms of theories that extol autonomy and independence] but does not address dependency head-on and therefore I would argue still needs supplementation with an ethic of care." ("ECDD", 51). Indeed, for instance, in *Women and Human Development* Nussbaum writes, "Human beings are creatures such that, provided with the right educational and material support, they can become fully capable of all these human functions. That is, they are creatures with certain lower level capabilities (which [Nussbaum] calls 'basic capabilities') to perform the functions in question" (83). To be fair, Nussbaum's focus in that work is a particular situation that women in India face and that it needs to be rectified; however, it still seems like a strange statement coming from a thinker who has developed prominent arguments for the inclusion of the disabled.

I believe that one may also retort that Kittay is not just trying to get care onto the “list of primary goods”; care, for Kittay, speaks to a deeper relationship, a deeper unity, and continuity between persons, abled and disabled alike. Thus it possesses an explanatory power. This is the notion of equality of consideration and the connection that human beings share with one another *through their need for care*. Perhaps this violates some of the metaphysical limits over which Nussbaum fears to tread; but perhaps, given that the “weaker assumptions” are not working, it is more important to have a suitable notion of the person, one fleshed out by understanding of the moral subject as fully relational, and not, in even the best of circumstances, independent *simpliciter* (cf. Kittay, “ECDD”, 53).

What I am arguing for, is that when we make exclusive pronouncements about what kinds of faculties humans have (i.e., what *characterizes* the human), we ought to be very careful about whom it is that we exclude; to wit, there *is*, in some people, a certain kind of rationality. I do not think it problematic to problematize that rationality, to theorize it, to deduce what it can or cannot do; when it becomes a problem, when it begins to become harmful, is when one is using a particular faculty styled as the cut-off point below which there is no sense in having a life, that such a faculty belongs to a particular kind of body or a particular kind of mind, then we need to look elsewhere when we consider the make-up of society.

I think we can avoid this kind of thinking, this kind of damaging rhetoric that further infringes on dignity, that we consider belongs to human beings by embracing a theory that begins from dependence, from our interconnectedness and need for each other. This is one of the principles for the idea of an ethic of care as Kittay develops it, one of the reasons I think that we should allow Kittay’s reflections and arguments to help us define an individual’s life as being bound up, happily and productively, with others in such a way that we allow such a vision to

inform our ideas of what justice ought to look like within society. The development of Kittay's thought is so fundamentally relational that I believe we are led to important insights that Nussbaum is not led to in pursuit of the potential independence, or a quasi-independence of the life of a cognitively disabled person and their guardian.

One way in which Kittay does this is by developing terms out of a sense of relationality. For instance, Kittay writes, "The moral subject [in the ethic of care] is conceived as a relational self, one that is constituted in part by relationships important to a person's identity" ("ECDD", 53). I have insisted, as part of my own argument, that this fact is crucial to our understanding of justice and the possibility of having a just society within which the disabled are included as citizens, of how and why we ought to feel that it is important that our policies and attitudes, the immediately social or the indirectly societal/governmental, be directed by a conception of the person as irrevocably tied up in relationships. Furthermore, as Kittay continues to elucidate terms that are developed in her account, "Moral relations occur not only between equals (who have voluntarily entered that relationship), but also among those not equally situated or empowered, individuals who find themselves in relationships that they themselves may not have chosen" (*Ibid*).

This poses a marked contrast between Rawls' theory of justice and Kittay's own. For Rawls, the "circumstances of justice" that obtain between citizens, obtains because "These individuals are roughly similar in physical and mental powers; or at any rate, their capacities are comparable in that no one among them can dominate the rest" (*TJ*, 109-10). Or, in other words, those dominated (i.e. in relations of depending upon someone else), are not in reciprocal relations with other members of society (so long as those "other members" are equally

situated)<sup>27</sup>. Because Kittay believes that relations that are unequal are still moral relations, she is able to postulate that therefore “Moral deliberation requires not reason alone, but also empathy, emotional responsiveness, and perceptual attentiveness” (“ECDD”, 53). Furthermore, Kittay writes that “moral harm is understood to be less a matter of the violation of rights, and more the consequence of failures in responsibility and responsiveness. Not the clash of interests, but the severing of valued connections is the harm an ethics of care attempts to avoid” (*Ibid*).

Thus we can see how deeply entwined the ideas of relationality and dependence, and justice are for Kittay. More to the point, care is something that we imagine already obtains in relationships most of us take for granted (say, the mother-child relation). Therefore, ways of relating well between each other, between the abled and disabled, between states and their citizens that would seem to be quite welcome for those whose lives have been reduced to the mere acceptance of charity rather than justice. Relationships, though, are necessary when we consider the development of another crucial social characteristic: cooperation. It is to this notion I turn to next.

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<sup>27</sup> During the course of her discussion of the “Circumstances of Justice”, Nussbaum cites David Hume as writing, “Were there a species of creatures intermingled with men, which, though rational, were possessed of such inferior strength, both of body and mind, that they were incapable of all resistance and could never, upon the highest provocation, make us feel the effects of their resentment; the necessary consequence, I think, is that we should be bound by the laws of humanity to give gentle usage to these creatures, but should not, properly speaking, lie under any restraint of justice with regard to them[...]” (in *FJ*, 47-8). In other words, the asymmetrically dependent (the very young, very old, or disabled) are not in relations of justice with those who are *not* dependent in quite the same extreme.

v) *Cooperation and the disabled*

In section iii) I argued that dignity could be seen as inherently social, that we can assign, *de dicto*, to any person *whatsoever* within a society; I also claimed that dignity makes up one important experiential aspect of the person. In section iv) I discussed care as another aspect of dependency, as part and parcel of the human that we need to disclose and explore as an avenue of inclusion, an inclusion that more and more seems to be merely fixing an arbitrary distinction that no longer applies (that is, the idea that the disabled, or very young or old, are the only groups in need of care). But, I argued, that everyone is in need of care, and this makes the derogation of the notion of caring, and those who do the caring, a strange case since it seems as if care should be the appropriate concern of *everyone* since we will *all* need it. It is particularly disparaging, though, if it is to the exclusion of a particular group of persons assumed *to be incapable of productive, cooperative* relations within society. I deny this assertion. That the disabled have limits not enjoyed by other members of the population does not, by itself, negate the experience of relationship, the complexity and value of relationships, between abled and disabled alike. It also begins to look like exclusion of, and misunderstanding the experience of, disability points to a groundless assumption that being abled is *necessarily better* than the experience of disability.<sup>28</sup> Before proceeding to a (more or less) complete idea of dependency and its relevance to forming a political identity within discussions of justice for the disabled, it remains to discuss the idea of cooperation and the disabled.

Cooperation, as a concept, then, needs to mean more than “economic productivity”. Or, if it has to mean economic productivity, then we need another word for how two or more persons

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<sup>28</sup> For instance, Kittay cites Richard Pryor, a comedian who has multiple sclerosis, as claiming that, because he learnt how to trust people through therapeutic treatment (like walking across the room), he valued becoming disabled as the “best thing that happened to [him]” (“ECDD”, 57). See also Barnes citing Sarah Eyre (92).

relate to one another; that is, how the actions and words, impressions and ideas, form through our social lives, influencing our thoughts, behaviour, and political involvement. Nussbaum writes, “We do not have to win the respect of others by being productive. We have a claim to support in the dignity of our human need itself” (*FJ*, 160). I am not sure how it is that dignity arises out of “human need itself”<sup>29</sup>, but I have already argued for a particular understanding of dignity and will not continue addressing the issue here; the idea, however, that we do not have to “win” respect “by being productive” I am in full agreement with.

But, *ceteris paribus*, I believe that Christie Hartley has the right idea when she writes, “Almost all human beings, whether or not they have the two moral powers, can make cooperative contributions to society”<sup>30</sup> (28). Hartley, however, is concerned with addressing the problem of Rawls excluding the cognitively disabled *vis-à-vis* the two moral powers. The moral powers cannot figure into the kind of political philosophy (social development/discussion of justice) that I am advocating. If we think that parsimony and economy of ideas is important to the analysis of discussions of political justice, then we have already begun to step away from the inclusive metric that I am asserting we require to have a theory that begins with abled and

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<sup>29</sup> Though addressing a different passage by Nussbaum, Vorhaus writes, “It is unclear why dignity resides in human need; where is the dignity inherent in the need to breathe, or to defecate?” (466). But perhaps some sense could be made out of a different word: if we thought of “need” as *qua* dependence, as in our dependence upon others (even animal others with regards to subsistence or companionship), then we can support a concept of dignity adhering to the idea of need. But such a reading would seem to conflict with Nussbaum’s criticism of Kittay. Though Nussbaum never suggests, in *Frontiers of Justice*, that we should consider ourselves independent in the sense that the social contract thinkers did, the notion of dependency (gaining support(s) from others and the *capacity* to receive such (cf. Vorhaus, 466)) seems like a good candidate to locate part of the human experience of dignity.

<sup>30</sup> Hartley continues, writing, “Many individuals who lack the two moral powers are able to participate in the labor market given proper training and support, and others contribute to the economy by performing household work in families. Still some individuals are not able to contribute to society in these ways. However, almost all human beings who lack the two moral powers can participate in relationships that are crucial to establishing a society based on mutual respect through their capacity for engagement” (28); she later defines “capacity for engagement” as “the capacity to see another as a responsive, animate being and to recognize the ability of the other to be responsive to something she interprets as a communication to herself” (*Ibid*). But Hartley and I will ultimately diverge since I am not attempting to re-interpret Rawls’s theory in order to reach a social contract account that would provide justice for the disabled.

disabled within a society; that is, we are acknowledging the fact that the person has more multifaceted experiences than the “two moral powers” would have us allow, or allow in terms of the question of justice. Instead of proposing, though, changes to Rawls’s thought (whom one cannot help but respect because of his hugely influential contribution to the discourse), I am moving away. In fact, I believe many of the problems here faced in Nussbaum’s thought stems from her commitments to Rawls’s theory (such as maintaining her account within the idea that it is not necessary to engage in “deep” metaphysics to alter our perspectives on justice (cf. Nussbaum, *FJ*, 79)).

Regardless, one of the ways I believe that my approach succeeds over Nussbaum’s is that there is no necessity to think in terms of “potential”. To wit, nothing depends on a person’s ability to achieve this or that condition, state, or goal; this is not to claim, or suggest, that people ought to take no interest in their own development, that they need to be allowed a degree of mediocrity so as to avoid frustration of individual desires. (I mean here, for instance, that someone who is unable (or unwilling) to score high grades in high school physics, may probably want to reassess their desire to be a rocket scientist.) Regardless of what political structures we have in a given society, I believe that options to choose (preserving liberties, such as Nussbaum’s list of capabilities does do) are crucial to every human life. This is, after all, part of the general understanding of liberty.<sup>31</sup>

Nussbaum, furthermore, writes that “The core idea [of the capabilities approach] is that of the human being as a dignified free being who shapes his or her own life *in cooperation and reciprocity* with others, rather than being passively shaped or pushed around by the world in the manner of a ‘flock’ or ‘herd’ animal” (*WHD*, 72, emphasis added). This sentiment is something I

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<sup>31</sup> As Rawls, for instance, writes, “Therefore I shall simply assume that any liberty can be explained by reference to three items: the agents who are free, the restrictions or limitations which they are free from, and what it is that they are free to do or not do” (*TJ*, 177).

would have connected to our relational life in society as well. This means that we do not, or we avoid as much as possible, to constrain (or overdefine/anticipate) and limit the individual in terms of that person's life goals. And this also means that the ideas of cooperation and reciprocity can belong to understandings that go beyond the bare idea of economic activity. After all, Nussbaum cites Justice Brennan, the judge in *Goldberg*, and interprets the opinion as meaning that "the purpose of social cooperation is not to gain an advantage; it is to foster the dignity and well-being of each and every citizen" (*FJ*, 202).

I think, furthermore, that there is less of a need to anticipate the limits of disabled persons;<sup>32</sup> everyone has limits, and the disabled person may have different limits, but all are on a spectrum. This notion is important, the spectrum, because it helps us understand the continuity, beyond being in direct or indirect relationships with disabled citizens. This is necessary, too, in connection with the idea of cooperation. Everyone cooperates *as they are able*, to whatever limit they set themselves. If it is out of the question, for instance, for someone to be able to work in an environment that demands some kind of mental or physical condition patently unobtainable by a disabled person (for instance, a paralytic as a roofer, or someone terrified of or incapable of communicating with strangers as a cashier for a busy restaurant), then it is not reasonable to imagine that that occupation is one within the purview of that disabled citizen. It is not even a matter of preference, but possibility. What is important, again, is that if a person desires something that they *are* capable of doing, then there should at least be some kind of recognition

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<sup>32</sup> This is important for several reasons. As Kittay writes, "Now what cognitive capacities Sesha possesses I do not know, nor do others. And it is hubris to presume to know. I am often surprised find out that Sesha has understood something or is capable of something I did not expect. These surprises can only keep coming when she and her friends are treated in a manner based not on the limitations we know they have but on our understanding that our knowledge is limited" ("PPP", 619). Sophia Isako Wong also points out that there is a great deal of ignorance in terms of what some cognitively impaired persons are able to do; for Wong, however, these displays of ignorance justify the "potential" of "persons labelled 'mentally retarded'" in terms of achieving personhood in the Rawlsian sense (cf. "The Moral Personhood of Persons Labelled 'Mentally Retarded': A Rawlsian Response to Nussbaum" ("TMP"), 586-7).

of possibilities and the possibility of maintaining an idea of social justice by understanding that the disabled is not some kind of life radically different from ordinary human existence but is itself a form of human existence. This means that opportunities should remain open for whomever in society can and will do a given occupation.<sup>33</sup>

Along with the idea of a multiplicity within the notion of cooperation, there is the fact that in some forms of cooperation, not working (in the sense of *economic productivity*) can be important within society too. That we can learn from the experiences of the disabled, that they have something to offer beyond their blood and sweat in pursuit of a productivity that cannot always exist, this makes relationships with the disabled such a form of cooperation. This is, again, to claim that what persons do, *do* when they are not capable of any form of cooperation beyond the relational, means that informing ways of being with and among others *is* precisely accruing to the social product. Consider the fact that Richard Pryor found *trust* (an inherently relational term) was the grace he received that made his multiple sclerosis diagnosis the boon he claims it was to his life (cf. fn. 28 in this paper). Being disabled helped him discover the importance of relationships and, thus, cooperating with others.

This makes it possible for almost everyone to be considered as participating (cooperating) in the social product. Of course such a product does not have a dollar value; but it *is*, I maintain, the very thing that forms the ground of society in the first place: relationships. Some argue that some of the disabled are not able to function in relationships (cf. McMahan cited in Kittay, “PPP”, 616); this is false, or at least is false as a generalization of a whole group of the mentally retarded. Kittay writes, for instance, that she has seen and heard her daughter and her daughter’s friends/housemates exhibit clear understanding (at least of *parts*) of relationships and some of the complex components of them (cf., “PPP”, 619); that is to argue that there is no

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<sup>33</sup> If I may be so bold as to borrow an idea from Rawls’ first principle of justice (cf. *TJ*, 53).

counterargument available to those who would denigrate the idea that relationships are patently unavailable to certain classes (i.e., the severely cognitively impaired) of the disabled. Thus, if we were to make the case that *every* individual who wants justice needs to participate in the larger social product, then this could be one way to demonstrate how the disabled are citizens who participate within society.

Now, it is not necessarily important for my project that we have a way of demonstrating the value of immeasurable, or intangible, social products of relating among persons. Hartley, as mentioned above, is working within the greater framework of contractarianism so she is led towards finding a way to include the disabled within a theory that rejects their claim on justice. But she does have a point, I believe, in terms of an expanded version of cooperation, of seeing relationality as a form of cooperation. As Hartley writes later,

Certain kinds of relationships among members of society such as mutually supportive companionate relationships and relationships based on mutual trust help make relationships based on respect possible. These kinds of relationships—also about relating to each other—concern what we do together and are direct contributions to society. Such relationships are not primarily about what individuals get from each other but about what can be shared among citizens. (29)

This is not to discount the work that others do in society (in the economic sense of cooperation) as not as important as the kind that is available to a small portion of the population; but it *is* to remind us that it is a form of cooperation to which the disabled in relationships are contributing. As Kittay writes, “To include people like my daughter, and to make a theory more amenable to other disabilities as well, it doesn’t suffice to accept the Rawlsian view of justice as fair terms of social cooperation. Those we wish to include may not fit the model of the social cooperator without a lot of distortion, if at all” (“CJD”, 286). This would be a view where we would cement in ourselves a certain version of what we would like to understand by the word

“cooperating”. I do not think we need to envision wide discrepancies in terms of the definition of that particular word, or give it “a lot of distortion”.

But, if we give Kittay the point, if we want to limit the amount of distortion we are applying to a specific word, what other word might be fit to describe what it is people learn from the disabled (and vice versa) through connecting with them? Perhaps, “work” could fit the bill, but there are problems that stem from that suggestion as well (such as the fact that we do not ordinarily consider all the “playing” that happens at or around school as *work*, for instance, though it *is* inherently relational); also when we “work” at relationships, we generally mean that there is something to fix. “Participation” might be another candidate, though it would seem to connote the value of *participating* in a given activity; if one cannot participate in *that* activity how is she to feel included? At any rate, Kittay offers something different in terms of Rawls’s definition of “fair terms”; she writes, “I propose an alternative: justice provides the fair terms of social life given our mutual and inevitable dependency and our inextricable interdependency” (“CJD”, 286). In other words, justice shows us how there is (or can be) a multitude of connections between the members of a society, not only economic ones.

But for Kittay, using the word “cooperation”, or the notion of “social cooperation”, is still problematic. She writes, “We are inextricably interdependent. The notion of social cooperation captures elements of this interdependence, but retains some of the fiction that as self-determining and self-sufficient agents we can take or leave this cooperative arrangement if we do not agree to the terms” (“CJD”, 287). I assume that the elements of “interdependence” that Kittay refers to here are the ideas that cooperating requires relationality in the sense that there needs to be at least two persons concerned in order to have cooperation in the first place. But the “two moral powers” (which I take to be what “self-determining” and “self-sufficient” refer to

here) hold us back; not, that is, in the sense that such things as the moral powers do not exist, I think, but rather that retaining this fiction means that we also retain the notion that abled and disabled are two classes to which justice means radically different things. That is, that there remains a fundamental sense in which the disabled cannot be seen as cooperating.

Maybe Kittay can be right in one sense: we will say that she is right *if* the philosophy we are critiquing is indeed Rawls. But, perhaps, Kittay can allow for the sense of cooperation that I have been attempting to derive from the accounts looked at here. Perhaps not. But Kittay later writes that “Starting from this perspective, it is impossible to see how a theory of justice can be adequate if it leaves out the needs of disabled people. Caring for one another with our different needs and capacities is a fundamental reason human beings join together in social arrangements<sup>34</sup>” (“CJD”, 287). I believe that with this as its starting point, we can begin to formulate an idea of personhood that focuses properly on the relationships which are really at the basis of any given society. This starting point requires, in the first place, that we cease reviling the idea of dependence.

It remains for my account to look further at the idea we are now able to elucidate with respect to dependency and every citizen in society.

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<sup>34</sup> This sentiment lines up nicely with one expressed by Nussbaum when she writes, “The good of others is not just a constraint on this person’s [i.e., a citizen’s] pursuit of her own good; it is part of her good” (*FJ*, 158).

vi) *Dependency and identity*

The argument, then, for why I believe that we should begin to formulate our theories of justice from the perspective of the dependency of its citizens is simple. The first premise, however, makes the following presupposition: it is *better* for society as a whole to be inclusive rather than exclusive with regards to its citizens. The notion that supports this, the intuition here is that society *must* consist of relationships. There are clearly connections between persons whatever the form of association. From this presupposition it is then argued that: there are a class of persons (i.e., the disabled) whose needs get overlooked or shunted to the side in accounts that view persons as “independent”. In order to include the disabled then, we begin from the perspective that all human beings<sup>35</sup> are necessarily dependent. The reason for this is that other theories that attempt to establish the independence of its citizens fail to include the disabled. Foundational for all this is the fact that relationships are, from the very beginning, *the* things that make a society work. As we have pointed out, whether or not there are periods in a person’s life where they appear more independent than not is still just a phase, a phase we might indicate by calling such persons the “temporarily abled.”

It was Eva Kittay’s work that led me to begin to ask questions about relationships and the idea that dependency ought to be the starting point of our investigations into the subject of justice, and to whom it applies. Kittay writes, “I believe there is much that is problematic in an approach that extols independence as the route to a dignified life and sees dependence as a denigration of the person” (“ECDD”, 51). She continues by noting that such an approach excludes those for whom independence, in the standard sense of being employed, “supporting

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<sup>35</sup>It is perhaps best to keep in mind that by “persons”, though I am including the disabled within this term, I do not mean human beings in a persistent vegetative state, or such conditions where consciousness really does not seem in evidence, or that the life can be called, as Nussbaum puts it, “truly human”.

oneself”, is not even a remote possibility. How, then, could we use such a duplicitous concept to stand at the bottom of our notion of who it is that composes a society’s citizenry, especially knowing full well it does not really (*truly*) apply to anybody? Moreover, as Kittay notes, “Dependence may in various ways be socially constructed, and unjust and oppressive institutions and practices create many sorts of dependence that are unnecessary and stultifying. But if dependency is constructed, independence is still more constructed” (“ECDD”, 57). This would be in line with what I have been urging throughout this paper: we have names for certain things which are not really appropriate outside of, for example, statement “X sure is an independent person!” (by which we could mean that they are self-starters, or prefer working alone than as part of a team, or that they prefer a life contrary to the idea of what a good life is to their parents).

Nussbaum comes to the table with a clear understanding of the independent/dependent dichotomy. At least, such seems indicated when she writes, “As the life span increases, the relative independence *that many people sometimes enjoy* looks more and more like a temporary condition, a phase of life that we move into gradually and all too quickly begin to leave” (*FJ*, 101). This is a nicely expressed sentiment, I believe it to be true and pointing to the fluctuation, over time, of the kind of lives human beings have.

But I believe that Nussbaum loses some of the force that such a sentiment carries because she imagines that persons are still working towards a kind of potential; but some way of utilizing the notion of potential, however, is not exactly the way I think our discourse surrounding disabilities should point towards or focus on. Disabled human beings *are* disabled, and, though this certainly includes a wide range of people, of different abilities, interests, and so on, we should be able to let the disabled choose their own impact within society, establishing and maintaining relationships they desire and are found in. Early on in *Frontiers*, Nussbaum writes

that “Because they are *political* animals, [an individual’s] interest is thoroughly bound up with the interests of others throughout their lives, and their goals are shared goals. Because they are *political animals*, they depend on others asymmetrically *during certain phases of their lives*, and some remain in a situation of asymmetrical dependency throughout their lives” (89, emphasis mine). It is the emphasized part of the statement that causes me to worry about Nussbaum’s account. That there are periods a person may single out as significant during the course of her life, as challenging, etc., does not seem to be a particularly disputatious concept; however, the fact that she does not seem to be able to admit dependence as the condition which we all share to begin with (when it is apparent that we *all* require the efforts of quite a few of our own fellow human beings and, of course, some other kinds of beings) is more problematic. Furthermore, Nussbaum writes (albeit in an earlier work), “Human beings are creatures such that, provided with the right educational and material support, they can become *fully capable of all these human functions*” (*WHD*, 83). I do not think that this statement is strictly true. To be sure, Nussbaum’s subject in *Women and Human Development* is not the stated project of *Frontiers of Justice*. That said, it still sounds like an unusual claim for a philosopher who wants to argue for the inclusion of the disabled, some of whom will never be “fully capable of all these human functions.”

Nussbaum also uses the term “fully integrated and productive lives” (*FJ*, 99), and, given the claims I am arguing for here, the idea of “integration” and “productive” as signalling the kinds of relationships and the ways in which fully *dependent* people require and develop with, is one I can get behind. But, again, I do not believe that there is a way for such lives to always be understood as “independent”, or if that is even the kind of thing that we ought to be aiming for when we think of citizens with disabilities. Why not, instead, move on from using the idea of independent in the realm of social justice, and not use it to define personhood at all? Or, if the

word “dependent” comes with too much negative baggage, “interdependence” perhaps could offer fruitful questions for investigation (more on this in the next section). Or, again, we could use the word independent to indicate nothing whatsoever about a person’s ability to “take care of themselves”, but rather simply as an indication of one’s individuality. Perhaps.

Complicated as Nussbaum’s approach might seem when considering dependency, however, is not to claim, for instance, that education for the disabled is an arena that should be closed to the disabled merely because some cannot be expected to adequately provide any return on the state’s investments. This touches on what we have already discussed in terms of cooperation, to wit, that a) cooperation is a plural concept, with varieties of social cooperation being in evidence, and b) that there is a social product, both for disabled and abled children alike, which is the kind of thing one wants to include among the list of things that are good within society, that society can bring together different kinds of life and flourish because of that very drawing together. To be more explicit, it must be recognized that education itself is a social, relational activity. Therefore, excluding the disabled from forming relationships within an educational system is precisely the kind of act that perpetuates injustice.

Nussbaum closes her chapter on capabilities and disabilities, in *Frontiers of Justice*, reflecting on Kittay’s thought. She writes, critically, about the “anti-liberal direction” sometimes indicated within Kittay’s proposals because Kittay “would attach less importance than a liberal state to fostering independence”; Nussbaum further writes, “By contrast, although my view insists that humans beings are inevitably dependent and interdependent, and holds that dignity may be found

in relations of dependency<sup>36</sup>, citizens enjoy *full equality* only when they are *capable of exercising the whole range of capabilities*” (FJ, 218). She qualifies this statement saying, “At times this may have to be done through a guardian” (*Ibid*), but this is in general keeping with the idea that guardianship can be a way for persons who otherwise have no voice, to have one.

However, the way that I have chosen to work through the issue of how to include the disabled within our frameworks for political justice requires spending more time focusing on dependency, on getting the relationships between persons right from the ground up. As Kittay reflects, “that a theory of justice based on capabilities avoids some of these difficulties [i.e. those faced by accounts which put the seat of dignity in our autonomy] but does not address dependency head-on and therefore I would argue still needs supplementation with an ethic of care.” (“ECDD”, 51). I have not necessarily urged a wholesale acceptance of the “ethic of care”, but then that is not the project I set out on in this paper in the first place. It is important that we understand where society begins from (from the idea that we are better/safer/stronger together than we are apart), than that we focus on a property of human beings that a percentage of the population is considered not to have.

With a focus on dependence, to wit, the binding condition of all citizens within a given society, we can begin asking questions that become meaningful through their very relationality. So, although the terms of the space for choice may change, they become understood as *possible* through the fact of their connectedness to other persons in society; that is, that the very notion of society as a requisite for the relationships we currently enjoy, the notion of justice will concern the very conditions of justice. Justice will be sought in terms of the preservation of relationships or the expansion, creation of them. We understand so much (and perhaps very little) by virtue of

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<sup>36</sup> We may, again, ask how, or why, Nussbaum imagines dignity to adhere in this case; it would seem to be incumbent on the caregiver, for instance, to treat the cared-for *with* dignity. But how this translates to holding that “dignity may be found in relations of dependency” still does not seem to be completely intuitive.

our relationships, of our sociality that the removal of the possibility of forming them becomes a grave injury to a given person or persons. The difference here between the notion of the list of central human capabilities that Nussbaum uses as a metric for determining whether a society is just, is that there is no requisite understanding of what a disabled person ought to be able to do in terms of being a citizen. The citizen *is* by dint of society and that because of dependency on their very relationality, not in terms of what they are able to achieve in society. We will begin to consider a theory just when the relationships that every citizen needs is not compromised by standards of capacity that are exclusive.

Nussbaum's insistence that *every* capability be secured to every citizen, even when it cannot be exercised, seems absurd. I am not suggesting we celebrate mediocracy but why should we say what a disabled person (mentally or physically impaired) *should* be able to do as an equal citizen? Perhaps it will be understood to be just that every citizen in a democratic society should be able to vote, or else that there are conditions that we have not yet begun to unpack since we would begin asking different questions from a different starting point. But we will not assume that everyone ought to be able to perform specific tasks, no matter what we might be capable of *in general*. What we will assume is that every conscious human being is capable of relationships within a given society.

Dependency will be the starting point for our political identity.

vii) *Objections and replies*

Given the points that I have touched on, objections here are likely to be numerous. In this section I shall try to eliminate a number of them, generally putting the objections and replies in the same order as I have outlined a definition of dependency.

One might mount a defense of an entirely *a priori*, or metaphysical, sort of dignity, the kind of dignity, for instance, that Pia Matthews endorses, claiming that human beings are in possession of a *natural* or *inherent* dignity. Matthews argues that “it is theology that provides the underpinning for deeper insights into the concept of dignity” (186). Matthews writes further that “Theologically speaking, on the one hand it can be noted that human beings have a natural dignity by virtue of the fact that they are created in the image of God: from the very beginning of creation this is the nature of every human being even though it is indeed a supernatural gift” (194). So, in Matthews’s Christian-influenced perspective of dignity, there is nothing a human being does in order to be seen to possess dignity; it is simply inherent in the idea of our creation by God. This is, of course, a comprehensive moral conception, an argument that would not be allowed if someone were to abide by the rules that Rawls insists keeps a conception liberal and plural. However, let us let the objection stand since I have argued that from the get-go we need to insert more with a metaphysical basis (even assuming an overlapping consensus could not be held as appropriate in this case) if we are to erase flawed conceptions that keep the disabled entrenched in a morass without dignity, or a sense of equality.

This means, too, then, that the account of dignity that I favour (which concerns the fact that we *know*, or *agree* that certain forms of treatment of one another is aimed at repressing or

removing someone's dignity) might not be considered as respecting liberal pluralism, though I have tried to keep it as such. I am assuming that such a concept would be based on convention, and this implies that we have some notion of what it is to be *bad* to one another. I cannot further investigate the whole question of dignity, but there are sure to be epistemic and ethical consequences for forming a notion in such a fashion, and one might find it a simpler expedient to accept a version of dignity such as the one Matthews presents. However, if I am justified in saying that the version I favour *at least* levels the field for human beings to whom we can grant dignity on the basis that they are immediately within relationships to other human beings, this does not exclude Matthews's conception necessarily, nor others similarly situated within religious conceptions, from the different comprehensive conceptions that come along with a liberal society as unacceptably sectarian.

My account is not intended to demolish the Rawlsian framework of a theoretical society (nor is it Nussbaum's, as she states), though I have gone rather beyond the smaller number of assumptions of what exactly personhood entails for Rawls. That said, I value the freedom of conscience and would not ask another member of society to forego theirs in order to live in mine, for example. Matthews's concept of dignity, then, could remain in place, so long as the idea of dignity also stays firmly attached to the disabled; a religious conception that did not tolerate disability could not be the object of overlapping consensus in any event, since disabled persons could not participate in such a consensus, or even a *modus vivendi*. Of course, Matthews's article argues for equal dignity to all human beings because "The dignity of the human being thus arises from this gracious gift whereby God has raised humanity to a supernatural level" (197).

In reply, then, if we count Matthews's position as a making sense for a certain comprehensive conception of dignity, we realize that in a way both my account and hers has the

same outcome: dignity for the disabled. However, Matthews's account may not permit such a secularization of the concept of dignity, as my account puts the notion of dignity firmly in human, not supernatural hands. The bottom line, however, is that dignity is recognized as part of the disabled citizen's life, just as it belongs to any other. I have tried to respect liberal pluralism here since Nussbaum's account, at least, gives it credence and I believe that we can develop an argument for respecting liberal pluralism from the perspective of dependency, so I maintain that though the society that I envision could begin from a concept of dignity that is an *a posteriori* effect of being within human relations and include Matthews's comprehensive idea, the reverse is not necessarily true.

While it might at first seem intuitive to regard care, since it is universally required for life, as something beneficial, some people argue differently, or argue that the notion of care should be relegated to the private, whereas the idea of "support" to the public (cf. Beresford, 10; also, Shakespeare, n.paged).<sup>37</sup> For instance, Peter Beresford notes that, "The reality seems to be that while care might be regarded by many of us as a good idea in principle and something that some people might need at some time, few of us identify with it for ourselves and actually want to be 'cared for' in this sense" (2). Beresford goes on to note that "There is a strong reluctance to see ourselves or to be in this position, because it implies dependence" (2). Thus there is a tendency, if what Beresford says is true, to see care as an infantilizing process rather than something that positively brings us into spaces where we begin to function as part of other social processes *through* the presence of care in our lives.

But if this is a prevalent idea, that many of us do not want to be "cared-for" because it is connected to dependency, then perhaps a change of perspective in terms of dependency and what

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<sup>37</sup> Tom Shakespeare also suggests the word "care" could be switched with the word "help" (n.paged.).

it means for our lives, can assist us in restoring a positive sense in the realm of care as well. In fact, I would reply to this idea in exactly that vein. Care is necessary however we might feel about it. Moreover, as Kittay has developed the idea, it gives us a way to construe meaningful moral relationships in such a way that we do not *have to* be perceived, or imagined as having the kind of independence that has been valorized to date. In that case, what happens to the person who ages and thus gets frustrated because they are no longer able to do all the things they used to (a fact of life, not merely a theoretical idea)? Do we have no recourse to encourage them, and make dependency as positive a relation as we can make it? The idea that “no one wants” to be “cared-for” should not yet put us off the idea that we have a unique relationship with the other members of our society.

I am, however, of a mind with Morris, when she writes, “Whatever ‘care’ is - whether it is in the form of formal services, cash payments, or personal relationships – if it does not enable someone ‘to state an opinion’, ‘to fully participate in decisions which affect their lives’, and ‘to share fully in the social life of their community’, then it will be unethical” (29). It would not matter what word we use, “support” or “care”, if these objectives are not made explicit and aimed for. I do believe, still, however, that care and the critique of relations and ethics that Kittay has developed provides an excellent basis for thinking well about the equality of disabled citizens.

In terms of cooperation, one may object that the definition I employ, or try to create here, is too broad, that it needs to be narrower in order to carry epistemic and/or systematic weight. Here we might consider the accounts of scholars like Cynthia Stark or Sophia Wong. Stark asserts that it is possible to resolve the tension in John Rawls’s theory between the fact that all humans are

owed justice just because of their humanity, and that David Hume’s “circumstances of justice” do apply.<sup>38</sup> By retaining Rawls’ theory’s general structure, we might then continue to employ use of the notion of cooperation in the way Rawls’ does.<sup>39</sup> Stark resolves the conflict by suggesting that there be two forms, or stories, of justice, basically having Rawls’ theory as one part of two separate accounts: one for those who are considered “cooperators”; and the other for those considered “non-cooperators” (Stark, “Cooperation and Contractarianism” (“CC”), 91)<sup>40</sup>, a group that would, ostensibly, include *at least* those with severe cognitive disabilities; Stark writes, “I interpret the non-cooperating to include both nonpersons and persons who are so impaired physically, mentally, or cognitively that, in spite of technological support and political will, they are not capable of participating in a scheme of cooperation and hence not capable of helping produce the benefits nor helping shoulder the burdens of cooperation” (Stark, “CC”, 81). Stark’s solution is to suggest that “we should read Rawls’s setting aside the question of what is owed to the non-cooperating as a way of treating that issue separately from the issue of what is owed to the cooperating” (“CC”, 91), thus retaining Rawls’s theory of justice but understanding it as “only part of the story” (*Ibid*)

Thus, on Stark’s account, the Rawlsian sense of cooperation would be preserved; it would have a relatively narrow meaning, one that conceivably would not endorse intangible contributions of the results of relationships with the disabled as within the cooperative sphere so

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<sup>38</sup> Cf. Stark, “CC”, 74.

<sup>39</sup> As Stark understands this, for instance, writing “the fully cooperating assumption enables Rawls to align himself with the bargaining theorist in confining the scope of mutual advantage to those capable of contributing to the cooperative surplus. In turn, it permits Rawls to limit the scope of his principles of justice to those capable of contributing to the cooperative surplus” (“CC”, 81”).

<sup>40</sup> In an earlier article, “How to Include the Disabled in a Contractarian Theory of Justice”, Stark writes, “My proposal is to retain the fully cooperating assumption in the original position but to drop it at the constitutional stage of the theory” (138). Stark argues that by proceeding in this way the disabled would have their interests covered by the constitution, even if they could not be considered initially. But the problem here, of course, is that we have not begun to think about the problem that the unqualified notion of independence still would create from the perspective that I have been arguing from.

understood. But this objection would not necessarily be fatal to the argument I have presented above; I could concede the point and say that any attempt to distort the economic sense of cooperation is not acceptable within political theory, though we would, still, need a word to then cover ways in which we relate to other humans in society. However, the notion of cooperation itself does illustrate ways in which we are dependent on each other since, as Rawls writes, “There is an identity of interests since social cooperation makes possible a better life for all than any would have if *each were to try to live solely by his own efforts*” (*TJ*, 109, emphasis mine). Though what other word would capture both the relational and economic sense that cooperation does I am uncertain of at present.

Sophia Isako Wong might pose a different objection with regards to the sense of cooperation I have argued for here. She seeks to present a reading of Rawls’s whereby she can include the disabled (again, in particularly the “severely mentally retarded”) within the framing of his principles of justice by making them “potential” persons who could, potentially, possess the two moral powers that Rawls considers as requisite for being among the choosers in the Original Position. She reads Rawls as “imagin[ing] the contractors as a small group negotiating on behalf of a wider class of individuals, including those who possess the two moral powers *only in potentiality*” (“TMP”, 586). I have remarked above that I think that the notion of “potentiality”, for people in general but the disabled in particular, is one that leads to a continued valorization of independence. Never mind that the disabled are not considered independent, but they have the *potential* to be; but the point is, at the end of the day, they do not. Or, rather, *we*, collectively as human beings, do not.

Thus an objection along Wong's thinking might hold that independence is just one such condition of human existence that can be seen as *potentially* within the disabled citizen's grasp. However, what would not change, what I have maintained throughout this paper, is that the idea of independence is a qualified one, one that cannot be used to support the idea that each citizen lives entirely by her own lights; the idea of society, again to point to the citation from Rawls' above, is that there are things we can get working together, cooperating, being in relationships with other citizens that we cannot alone.

Nussbaum charges Kittay with being too illiberal, placing the notion of dependency as more central than the space for choices within a person's existence within a particular social arrangement. As I have defended the idea that we need to embrace our dependency as a starting point for considering what it means for the disabled to be considered subjects of justice, or, indeed, citizens of society in their own rights, then the same objection can be made towards the account I have presented. Let us consider further. If we are making choices, that is, making choices that affect our life within society as with whom we associate, have sex with, work with, etc., this depends on the idea that we are free to choose certain of these things in the first place. An account, such as Nussbaum's, where the notion of choice (which is, in a sense, a kind of independence that depends on certain other structures holding) is so central, is really making claims about the centrality of choice within *an existing society*. That is, Nussbaum is not presenting a theory of how to design a society, as Rawls' project continues in the social contract tradition; she is, rather, engaged in determining the ways in which certain features of human existence must be seen as real choices; denial or the absence of these choices, these characteristics of what is most central to a liberal account of political theory, must then be seen

as wrong, unacceptable. This indicates, to Nussbaum, that she is dealing with a situation that is evaluated as lacking in the terms of the capability approach.

But, how does this conflict with the notion of the human as a fully dependent creature, an animal that requires a great deal of support in order to live what we (now) consider to be human lives? If, say, the truth of existence were that it is more solipsistic (if that concept admits of any degrees), that what the average human contended with was nature and all the violence and relative weakness thrust on her, that the daily task confronting a person in that kind of existence merely trying to survive, where would that subject place the importance of play, imagination, senses, etc.? The only choice, in theory and for argument's sake, is whether to live by finding food, shelter, and water, or to give in to the world and die.

Of course, such an example is merely a thought experiment. But the point is we would not be so concerned with choice where there are none or just a few. Would such a person be considered dependent? It would seem not. She would be living, essentially, with her own society, utterly consumed by the task of living day to day. All this is to say that there must be other features (namely a *society*) before we can assess the relative importance of the list of capabilities. None of this is to suggest that Nussbaum's list is not full of important goods for human life. I fully concede that it is. But nothing on the list implies that humans need to think of themselves as independent in order to avail themselves of the choices on her list. They merely need to be in a situation where it is assumed that the human being can be in control of *some* of her life chances and choices. As Nussbaum writes, "my view insists that human beings are inevitably dependent and interdependent, and holds that dignity may be found in relations of dependency, citizens enjoy full equality only when they are capable of exercising the whole range of capabilities" (*FJ*, 218). The last part of this citation is where it sounds as if independence and choosing within "the

whole range of capabilities” are close bedfellows; that is, that Nussbaum is claiming that while there is certainly no independence *simpliciter*, it remains part of the evaluative part of her project to demonstrate that the citizens of a *just* society ensure that equality has been attained by the fact that all the citizens are capable of *standing on their own* in the light of the choices available to them on the list of capabilities.

However, I have understood dependency to be in fact the equalizer that Nussbaum takes the capabilities and the ability to use them to be. To be dependent does not mean, at the same time, to be stripped of choice. I am claiming that dependency is a descriptive and yet inalienable fact about the nature of the existence of a person living within a society. That dependency is understood as fundamental to the nature of the political human citizen, and that dependency includes those who are otherwise different from those in the “normal range”.

But then one might choose to denigrate the very use of the word “dependent” or “dependency”, claiming that it carries along with it conceptions of weakness, maybe worthlessness on the grounds that one (i.e., the citizen) *normally* is something altogether different. So, one might argue, as Barbra Arneil does, that the word “interdependency” is better suited for closing the gap between the abled and disabled within society. Using “interdependency” as the word that explains the connections between persons both abled and disabled, Arneil claims that “[...] if we accept the principle that we are all interdependent to varying degrees (including at different points within any given lifespan), disability becomes a dimension of human diversity across space and time rather than a tragedy, deficit, or abnormality” (237). Thus Arneil, as well as the account I have begun to develop here, sees a need to recognize diversity in terms of a spectrum, rather than two polar groups (i.e., the independent on one hand, the dependent on the other). The

word “interdependent”, however, preserves something for Arneil that I have chosen to see as irrelevant when it comes to seeing what principles of justice we ought to aspire to; this is the notion of independence. Arneil concludes her article writing, “Interdependence allows us to excise the many negative images so central to modern political theory and replace them with a positive set of images and an alternative theoretical basis on which to develop social arrangements (accommodations and supports governed by the principle of human dignity) that facilitate independence even as they support dependence in varying degrees across the life cycle” (238). While the focus of Arneil’s article is on the (negative) images imposed on people, she does not investigate (far) into the weakness of preserving the notion of independence within political theory.

The use of the notion of interdependence may indeed help us to structure an account that sees persons within society as very much interconnected. At the same time, I believe we need to be careful about an uncritical use of the notion of independence. If used qualifiedly, I see fewer issues; but “independence” cannot be used to describe people *ex ante* which results in a highly stratified, exclusionary matrix, no matter what the intentions of the author are. If “interdependence” is imbued, then, with the notion that independence is really a faulty/carelessly-used concept that unnecessarily alienates whole groups of citizens, then I can get on the same page as Arneil. What becomes unjust is to hold on to the idea that independence itself serves as a useful metric for understanding the relationship between citizens; the continued valorization of independence puts us farther away from our goal of developing a theory of justice that includes the disabled.

*viii) Conclusion*

The disabled are part of society, too; they want to have relationships, flourish, and contribute to the social products as well. As such, justice is not available to disabled citizens in theories that valorize a mythical notion of independency. If no one is independent, then, no one is left to the side when it comes to considering what it takes to provide justice for all of society's citizens. Dominant theories in political philosophy, perhaps most notably John Rawls' work, perpetuate this myth, but cannot include the disabled. Knowing this, knowing that we are fully aware that we have a concept of the person which excludes a portion of the population that needs more help than the rest, it therefore seems to be problematic to hold onto the notion of independence *and* be committed to providing justice for *all* citizens.

Nussbaum writes early on in *Frontiers of Justice* that "Because solving this problem [justice for the disabled] requires a new way of thinking about who the citizen is [...] it seems likely that facing it well will require not simply a new application of the old theories, but a reshaping of theoretical structures themselves" (*FJ*, 2); and yet, in the final analysis, she holds on to the society created by the tradition she critiques. As a liberal, Nussbaum thinks she cannot countenance dependency as the underpinning of the notion of the human citizen because it does not sufficiently stress the notion of choice, when it remains the case that even understood as dependent, we have not lost our ability to choose. I have merely urged that what the space to choose looks like inhabited by the human being is built on a foundation which assumes that *all* of us are connected by a shared dependency, rather than excluding *some* on the grounds that *some* can stand alone. Whatever it means to "stand alone", to be "independent" (which is probably more accurately phrased "independent with regards to situation *x*"); independence does

not have to be the only requirement for the space of choosing within a given society. It can be, and since it has been so much a part of the political conversation involving the social contract tradition, we have some notions about what it is that independence is good for.<sup>41</sup> However, the idea that we are connected by our dependency, the fact that this includes *unqualifiedly* the inclusion of the disabled as part and parcel of our social make up, does not therefore mean we have been stripped of the choice that Nussbaum's liberal view puts in the forefront. It is possible that we would conceive of the choices we make in different terms, and further inquiry (which cannot happen here) would be required. It would be a fruitful and interesting inquiry.

Among other fruitful inquiries, it is possible to use the perspective beginning with dependence as an equalizer in other discussions where it appears that the relationships are unequal. For instance, the issue of how to think of/treat refugees could be investigated. The refugee is put into the position, essentially, of begging; they must arrive on foreign soil and ask for the things they do not have: food, shelter, protection, etc. If the question as to how to treat the refugee is asked with the assumption that persons ought to be *independent*, then the refugee is left hoping to be treated with charity; but certainly nothing approaching equality. But, to create a vision of the refugee as a dependent in the sense that *we are all dependent creatures*, then the realities of what the refugee has been forced to leave behind (i.e., the only life they have ever known) becomes part of the understanding that the refugee and the citizens of the country she has asked for protection from that they are people on an equal footing, after the same things that everyone else desires from their human and social relationships. These are only rambling

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<sup>41</sup> Nothing I have said could possibly induce someone to think that slavery through dependency is a *just* option. I daresay it is not an option at all. I believe we still *are* individuals (perhaps better put, we have our individual situations) but our social make-up attaches us so inextricably to the lives of others that we cannot say that we are independent without qualification (Cf. Kittay, "At the Margins of Moral Personhood", 288).

thoughts, however, and would need to be thought out in order to elucidate the experience of the refugees, then determine what it means to be equal with foreign countries.

Ultimately, let us no longer perpetuate the exclusion of persons with “minority bodies”, to use Barnes’s phrase, or minds; they *are* our friends and family, too. Let us find grace and dignity in our dependency. We are in society together. We know what we need to do. By offering the above account of dependency, I hope that I have created a place to continue thinking about this problem, and working towards an idea of justice that sees the value in nothing but the very lives of society’s citizens. The disabled are not non-cooperators; they are doing what they can, and some succeed way beyond what has been expected of their abilities.<sup>42</sup> This can keep happening; there can always be more surprises. If we support our disabled citizens, we can see just how far some of them are able to have lives that they never dreamed of. Or, perhaps they dreamed of but were told could never happen.

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<sup>42</sup> Cf. Wong, “TMP”, 586-7; “Duties of Justice to Citizens with Cognitive Disabilities”, 390.

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