

THE TRUE CAPABILITY OF MARTHA NUSSBAUM'S CAPABILITIES
APPROACH: A CRITIQUE AND REFORMATION

by

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DEDICATION

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I. INTRODUCTION

A human life should be understood as one that is functional, that is livable.¹ In order to achieve such a life, an individual must have the ability to meet goals readily. These can be simple goals such as moving across a room, or expressing one's goals to others. Or, these might be grander more complex goals such as political participation. Human rights, the combined capabilities that allow an individual to function, are a contentious issue.² How far these rights extend is also debatable. One concern is the universality of a right: whether it can be applied across different countries that might have variant beliefs. The "capabilities approach" provides citizens a reflective morality, looking at every case as well as the whole situation, concerned with the individual and not only the group. This approach might provide motivation to create a better world locally and globally. Suffering seems to be a unifying factor between individuals and foreign nations and cultures that motivates concern for the capabilities.

The capabilities approach to human welfare, advocated by Martha Nussbaum, supports a theory of justice that asserts that basic constitutional principles, which are the listed capabilities, ought to be valued and secured for citizens by all governments at a basic social minimum. Nussbaum assumes a universalist belief that there are essential human faculties, or functions.³ Thus, a government preventing its citizens from developing their abilities to actualize these capabilities commits unjust actions. It impedes the development of other basic capabilities such as Bodily Integrity. The human capabilities spell out what people are actually able to do and become; in addition, an emphasis on capabilities expresses the view that human beings are of high value and dignity. Martha Nussbaum identifies the following ten capabilities:

¹ Bernard Rollin, *Animal Rights and Human Morality* (Buffalo, NY: Prometheus Books, 1992), 98.

² Martha Nussbaum, *Women and Human Development: the Capabilities Approach* (New York: Cambridge University Press, 2000), 98.

³ *Ibid.*, 5.

1. Life—being able to live a human life of normal length; not dying prematurely from normal curable ailments, or because one’s life is so reduced as to be not worth living.
2. Bodily Health—being able to have good health, good reproductive health, adequate nutrition and adequate shelter.
3. Bodily Integrity—being able to move freely; being able to be secure against sexual, physical, and domestic violence.
4. Senses, Imagination, and Thought—being able to use senses, to imagine, think and reason—doing things in a human way, informed and refined by education, including training in literacy, arithmetic, and science.
5. Emotions—being able to have sentiments about things and people outside ourselves (i.e. to love someone, grieve, etc.).
6. Practical Reason—being able to have an idea of the good and to reflect critically upon the planning of one’s life.
7. Affiliation—(a) being able to live with and have concern for others; (b) having the social bases of self-respect and non-humiliation.
8. Other Species—the ability to live concerned for and relating to animals, plants, and nature.
9. Play—being able to laugh, to play, and enjoy recreation.
10. Control over One’s Environment—(a) Political, being able to participate effectively in political choices; (b) Material, being able to hold property.⁴

In *Women and Human Development*, Martha Nussbaum has proposed that all people should have the liberty to use their capabilities, as they are central to a human life.⁵ Her point here is that without access to these ten essential capabilities, a fully human existence (one worthy of human beings) is not possible. Preserving and striving for such capabilities makes a government respect its citizens and guarantees the citizens the possibility of developing better lives. According, to Nussbaum the advocacy for capabilities does not argue against tradition or culture, but aims at improving certain nations’ low quality of human conditions. Below I argue that this characterization cannot hold, and that in some instances, tradition and the capabilities approach will be at odds.

One reason the capabilities approach is important is that the definition of functioning as a human is still debatable. Even what is regarded as deserving of moral consideration is something

⁴ Ibid., 77-80.

⁵ Ibid., 71.

that is not universally accepted. If we are able to work through the project she presents, it might help in defining what it is to live as a functioning human being, allowing a ground for social critique and social change. Her theory might also help in creating a method to distinguish one nation's success from another as an alternative to other forms of comparison, such as the Gross National Product (GNP), by measuring nations' allowance of access to central capabilities, allowing cross-national comparisons.⁶

While I am sympathetic to Nussbaum's approach, in this thesis I want to examine the negative consequences that might arise from implementing certain capabilities. I critically explore five features of Nussbaum's capabilities approach: the relationship between a capability and a functioning, the importance of choice, the notion of *multiple realizability*, the exclusion of metaphysics, and the importance of exemplars.

I will first review her project and its effect on citizens, both positively and negatively. By using examples I will show how and when her theoretical claims both work and fail, and how concepts discussed by John Rawls might help to correct the theory's failures. In particular the addition of what Rawls calls the "Aristotelian Principle" might provide a practical means towards the promotion of justice and human capabilities. Her claims about *multiple realizability* will be examined in order to establish whether diversity can be reconciled with the universal notion of capabilities in her theory. Additionally, I will examine the role of desire in Nussbaum's theory. Her interpretation of desire shows how our desires follow from the capabilities. As we desire a particular goal we build upon our own selves; this process might reflect a capability in itself. In addition, I will prepare an analysis of my own that critiques her theory. The objective is to create a variation of her theory that focuses on improving our own character by helping others to develop their capabilities. The operative assumption is that it is better to actualize our

⁶ Ibid., 60-1.

capabilities; that merely advocating for them is not enough.

Nussbaum suggests that there is an awe-inspiring element in humans that stems from their dignity.⁷ From this sense she believes that it is “horrible” to observe a person’s situation degraded due to the circumstances of the person’s life versus the “wonderful” occurrence of seeing the person overcome turmoil and struggle. Thus, we are naturally motivated to help those who inspire in us an awe of the human capacity to triumph over adversity. Her theory is Aristotelian in that its argument focuses on the claim that there is a mode of true human functioning that leads to flourishing.⁸ This is similar to the Aristotelian notion of *eudaimonia*, where humans have a function, and that in this they have what is considered the good and they are living well.⁹ Nussbaum’s theory is based on this Aristotelian belief that there is a dignity, or a special uniqueness that is deserving of value, in humans. Consistent with this aspect of her work, I will argue that by drawing on the “Aristotelian Principle,” we can strengthen her view and resolve some difficulties it presents.

There are some problems with Nussbaum’s theory. What is an individual faced with once he/she gains the ability to actualize a capability? If he/she has never had certain capabilities and is eventually allowed to express them freely, then I believe that the individual needs to be educated on the capabilities to counteract the previous lack of development. A problem exists when an individual lacks knowledge of how to actualize a capability in a proper relation to the other capabilities. As an example, with in the capability Emotions, a person who has been taught to censor his/her emotions might not be able to control them and might react improperly to events; on the other hand, he/she might be unable to express emotions, thereby becoming socially inept.

⁷ Ibid., 73.

⁸ Ibid., 13, 70.

⁹ Aristotle, *The Nichomachean Ethics*, trans. David Ross (New York: Oxford University Press, 1998), 13.

Another problem is whether the capabilities *really are* universal. Are there certain capabilities that would not be effective, or desired, because of the particular way of life in certain countries and societies? Her theory might regard diversity too highly to be a normative theory, or, it might go too far and make cultures change gratuitously. Is she correct in focusing merely on the access to fulfill a capability, or ought she to focus on its function? By not focusing on functioning, such as Bodily Health, and by not attempting to advocate for the actual fulfillment of Bodily Health, her theory might fall short in providing an actual reason why such a capability is good. At least three categories of objections/questions are covered: a) is Nussbaum's theory correct, b) is Nussbaum's theory complete as it stands, c) given Nussbaum's theory, what are the acceptable ways of seeing to it that the capabilities of persons are fostered?

One additional concern that arises in regard to the capabilities of people is how we ought to implement and establish these capabilities in a society in which the government has never valued such capabilities. According to Nussbaum, a government's role is to protect and promote its citizens' central capabilities and allow access to them in order to develop these capabilities. If a government were to violate such development, then it would limit the freedom of its citizens and harm their lives, and as a result forfeit its legitimacy, as a protector against injustice and impeded freedom. The discussion of natural rights lends itself to the discussion of human capabilities, because rights are the successful meeting of function and central capabilities. This means that the capabilities are part of societies' laws, and citizens can partake in realizing them. As we vote for politicians to run our government, we take part in deciding how our voices will be heard. We have a vested interest in establishing our dignity, our own value of self-worth, by securing opportunities to develop our capabilities.

Governments play a role in securing, developing, and protecting capabilities. In

preventing its citizens from developing their abilities to actualize certain capabilities, a government commits unjust actions. It restricts them from developing other basic capabilities. If a government has previously not allowed people to develop certain capabilities, then there might be difficulties establishing these and implementing them successfully. An example of this might be the difficulties of elections in Afghanistan after the Taliban's reign, a concern of the capability Control Over One's Environment.¹⁰ The fears faced in voting and ignorance about voting had to be overcome to learn how to exercise the new capability.

Also, what are the consequences when these capabilities are taken away? For example, the Arizona immigration law that requires any person who looks like an immigrant to carry proof of his/her legal residence results in de facto racial profiling by allowing police to pull over anyone who might be suspected of being in the United States illegally.¹¹ This law takes away the capability that Nussbaum lists as Bodily Integrity, since a certain population is being policed and stopped based merely on looks. The consequence of such an issue might be that the promotion of the capabilities of one group might be restrictive to the capabilities of another group.

In chapter one, I present key elements of Martha Nussbaum's capabilities theory of human welfare. I will discuss the definition of a capability, the significance of the ten basic capabilities, the issues of *multiple realizability*, and the proper role of government in guaranteeing or allowing progress in the capabilities. The second chapter will show certain problems with Martha Nussbaum's approach, including her unsatisfactory explanation of how to apply these capabilities when individuals have never known what it is to actualize certain capabilities. Are there negative implications when the capabilities are finally accessible to

¹⁰ Amy Waldman, "Fearful Choice for Afghan Women: To Vote or Not to Vote," *New York Times*, October 5, 2004, accessed October 22, 2013,

http://www.nytimes.com/2004/10/05/international/asia/05afghan.html?pagewanted=print&position=&_r=0.

¹¹ Randal C. Archibold, "Arizona Enacts Stringent Law on Immigration," *New York Times*, April 23, 2010, accessed October 22, 2013, <http://www.nytimes.com/2010/04/24/us/politics/24immig.html>.

citizens? Does the capabilities approach provide a successful ethic for humans? Do we have a responsibility to concern ourselves with other countries' restrictions on capabilities? Since the capabilities are not static and can change, it seems that the threshold could be lowered or raised based on the ways in which nations interpret the central capabilities.

My final chapter shows that Martha Nussbaum's capabilities theory will present major issues in its application. I propose improvements to her theory in order to make it better able to deal with these problems. The general nature of her theory leaves much room for interpretation and is unsatisfying in securing that an individual would ever actualize a capability. Accordingly, I believe that her theory could benefit from the addition of Rawls' Aristotelian Principle: human beings benefit from their realized capabilities (their innate or trained abilities), and the enjoyment from these increases with the capability realized or with its degree of complexity.¹² By realizing the capabilities, individuals establish more practice in the development, not merely of their capability, but of their human functions. Although I believe Nussbaum would agree with this, she neglects to argue for such a claim. I will also discuss the issue of excellence and its relation to humanity as a community.

Although my thesis addresses some problems with Nussbaum's theory, I also develop my own viewpoint on how we can be responsible for others' lives. An account of what actions we ought to take and of how burdens are shared across borders provides a better strategy for how to live our daily lives. If we can give citizens of every nation opportunities to use and develop their natural talents in certain capabilities and the central capabilities themselves, then we have made the world a better place. We might regard an effort to help others as bettering not only those around us, but also ourselves.

¹² John Rawls, *A Theory of Justice* (Cambridge, MA: Harvard University Press, 2003), 374.

II. NUSSBAUM'S CAPABILITIES APPROACH

The capabilities approach that Martha Nussbaum formulates stems from the theory presented by Amartya Sen. His presentation claims that an ethical theory and political philosophy must determine the elements of humanity we ought to focus on in order to judge a society and assess where justice and injustice occur.¹³ She claims that his version of the capabilities approach looks at what people have in terms of capabilities and what they are able to become in their lives, what they can do, and what they can accomplish with these capabilities.¹⁴ Sen believes that there are comparisons to be made in standards of living in terms of capabilities. These are questions concerned with social equality and inequality. For instance, a government might not allow women to drive motor vehicles; this can be compared in various categories to other governments who do allow women to drive. Nussbaum agrees with Sen that standards of living can be compared; however, her theory goes beyond this by addressing not merely questions but also solutions to move forward toward a political plan that concerns human liberties and abilities. On Sen's account there can be trade-offs between the capabilities, whereas on Nussbaum's view there cannot be any justified trade-offs between capabilities. Her theory combines an account of capabilities and a threshold level of these capabilities, that is, the combination of the listed capabilities and reaching the minimal level. The threshold, never clearly defined by Nussbaum, appears to be a particular cultures' and a citizens' debate over the minimum level a capability ought to be in a human existence. This might supply a foundation, and should be codified in fundamental constitutional principles that give citizens the right to demand rights from governments. This threshold, the minimal level of a particular capability that

¹³ Amartya Sen, *The Idea of Justice* (Cambridge, MA: Harvard University Press, 2009), 231.

¹⁴ Nussbaum, M. *Women and Human Development*, 12.

must be met to allow for a human existence, is higher in value than a full notion of capability equality, because the task at hand is to argue for governments to provide access to basic capabilities to their citizens. The notion of a threshold is unique to her version of the capabilities approach. Sen never mentions such an attribute; his version of the capabilities approach has no notion of a threshold. Nussbaum's theory is merely a partial theory of just distribution that should, she argues, be compatible with diverse accounts of distribution.¹⁵ Sen and Nussbaum both believe that all capabilities are fundamental, although Sen's is a non-essentializing account, where as Nussbaum's view is of essential capabilities. In addition, they both believe that every person's capabilities are to be considered when judging whether nations are successfully treating their citizens.

The Formation of Nussbaum's Theory

The most significant difference between Sen's and Nussbaum's approach is that Nussbaum has a list of central capabilities; Sen does not compose a list of capabilities that he believes make up basic human qualities.¹⁶ There is a distinction between capability and function; for instance, health as a capability is different from the function of being healthy and of actually being able to function healthily. A capability can be understood as a capacity for some good or activity or trait, similar to Aristotle's notion of a potential. A functioning is an activity, a realization in human life. To function healthily is a matter of being active and not passive, whereas having access to living healthily is merely the capability and no more. Her concern is with access, not with function.¹⁷ Additionally, these central capabilities are promoted as rights, so that central capabilities are not to be violated in order to follow another social gain—including some other capability. The list of capabilities, distinct to her theory, leads her project into more

¹⁵ Ibid.

¹⁶ Ibid., 13.

¹⁷ Ibid., 14.

intricacies such as defining three different sorts of capabilities. These are significant in exploring more deeply what the human is actually able to do in his/her culture. The three are as follows: (1) *basic capabilities*, ready function-oriented (i.e. seeing and hearing, a newborn's capabilities) are at the most minimal level and are not directly changed into functions; (2) *internal capabilities*, developed states of established conditions of readiness, are trained and learned from an environment (i.e. learning to love, or vote); (3) *combined capabilities*, are capabilities that have synergy; they promote human dignity within a an individual's ability, but also establish an environment that encourages exercising of practical reason and other main functions.¹⁸

An important reason for using the Capabilities Approach is that economic growth is not a complete indication of how successful countries are. There are issues affecting all neglected citizens that are ignored when economics is the only aim.¹⁹ Such issues include, but are not limited to, the gap between rich and poor, social disconnect, and the inability to access a quality food supply. There can also be issues of access to political rights, and many types of discrimination. Nussbaum asks what the role of a government should be for its citizens. She argues the following: (1) there are universal standards in the application of central capabilities; (2) these norms are legitimate markers for success and comparison from one nation to another in the promotion of a human quality of life.²⁰ Her project is dedicated to creating and implementing a standard of comparison across various cultures.

To make cross-cultural comparisons, we need a universal structure to assess quality of life, a tool by which all governments can justify the utilization of the capabilities approach and measure its success. Following the capabilities approach, this tool will, make use of three arguments: *argument from culture*, *argument from good of diversity*, and *argument from*

¹⁸ Ibid., 84-85.

¹⁹ Ibid., 33.

²⁰ Ibid., 35.

paternalism.²¹ The *argument from culture* states that in women's quality of life there are established norms in female modesty, respect, duty, and self-sacrifice that have been definitive to women's lives for centuries. Nussbaum believes that we ought not to assume that those are bad norms, or that they are *prima facie* incapable of constructing good and flourishing lives for women.²² Although she is focused on women, as they are the group she surveyed while conducting research in India, we are able to apply her argument here to the ways in which we view a number of groups in various cultures. For instance, the adoration of cows in India could be considered foreign to Americans, but this practice produces a good and flourishing life for the creature. The assumption of the *argument from culture* is that there might be negative outcomes for a culture's restrictions on females in certain cultures (e.g. female genital cutting). In the case where the person wants to live a restricted life and live by the norms of a particular culture, Nussbaum wants to allow women to choose such lives and parents to teach such traditions.²³

However, Martha Nussbaum condemns cultural relativism, the belief that normative principles ought to be formed only from inside the culture that applies the norms. She believes that cultural relativism would be unsuccessful due to the fact that people borrow ideas and apply them successfully to their own lives. This is unique to her theory and absent from Sen's.²⁴ Relativism cannot account for how cultures are mixed as they encounter the Internet and other media, and requires some notion of cultural separation and purity.²⁵ Ideas such as democracy and feminism are aspects of many societies, and cultures can be inaccurately understood by moral relativists who merely see promotions of such ideas as the conquest of one culture over another. If it is possible to learn about new ideas, resulting in the best, or better, possible ways of life,

²¹ Ibid., 41.

²² Ibid.

²³ Ibid., 42.

²⁴ Ibid., 13 and 48.

²⁵ Ibid., 49.

then the conclusion is that spreading knowledge about such ideas is a positive for promoting human capabilities.²⁶ In addition, moral relativism is self-defeating because as it calls for the society to work within its own moral spectrum, it also advocates for those cultures that might hold non-relativistic views to continue their exploration of normative principles from outside their own traditions. Nussbaum claims that being able to have the choice to go outside one's own culture to find the best principles would provide the ability to compare one's own principles to those in foreign cultures. However, it should be understood that moral relativism is flawed precisely because in its respect for diversity it actually accepts those cultures that do not accept diversity. Relativism tends to neglect the fact that there are a number of societies that are not accepting of diversity; thus, advocating for cultures to merely look from within and ignore foreign cultures' principles neglects diversity.²⁷

The next argument she provides is that the *argument from good of diversity* follows the belief that the differences between cultures and nations provide a greater range of values than if there were no cultural or national differences.²⁸ This larger range of values is importantly connected to having meaningful choices, one of the goods Nussbaum aims to promote. We do not rely on one source as our guide to what ought to be valued; instead we have a plethora of methods of guidance to live by. Nussbaum states that the value of a lost language and the tragedy that occurs with its extinction is similar to the loss of a culture, as both losses deplete the world of a valued resource for how to view the world. Thinning out the resources of human life by losing a cultural system with its unique beauty would bankrupt our world. Therefore, if everyone were to acquire America's value system, our world would be left a much less interesting place. However, Nussbaum recognizes an objection to this comparison to language and diversity:

²⁶ Ibid.

²⁷ Ibid.

²⁸ Ibid., 50.

languages do not harm people. One culture has the capability to damage another: for example, Nazi Germany, which attempted to destroy the Jewish culture. In response, Nussbaum believes that this is a reason to explore different cultures in order to know what aspects are deemed worthy of preserving and which are damaging.²⁹ This is an argument for a universal structure to assess quality of life because without this sort of exploration there would be a homogenous effect in a range of areas such as language, ethnic groups, and culture.

The final argument she addresses in the three arguments in favor of a universal structure is the *argument from paternalism*, which states that the process of setting up universal norms as the standard for societies to meet and of telling them how they ought to live disregards individual freedom.³⁰ Freedom means that there are options available to people, and is valued intrinsically.³¹ Nussbaum believes that people are the best judges of what is good for their lives. By preserving choice she advocates merely the access to, but not the function of, a capability. She still endorses universal values and believes that these are values all would share. Her theory respects different notions of the good that citizens could practice, so long as they do not harm others.³² The theory would be a facilitation of universals and not be dictatorial, where the ability exists to grow and even change one's own notion of the good. Universalism is a function vital to her theory and is represented in five points: (1) *multiple realizability*—each of the capabilities might be comprehended in diverse ways, according to individual tastes, local circumstances, and traditions; (2) *capability*—fundamental political principles are centered on endorsing capabilities, not function, leaving it up to citizens to choose whether or not and how to develop the capabilities; (3) *liberties and practical reason*—the capabilities list is based on the power of

²⁹ Ibid., 50, 59.

³⁰ Ibid., 51, 59.

³¹ Martha Nussbaum, *Creating Capabilities: The Human Development Approach* (Cambridge, MA: Harvard University Press, 2013), 25.

³² Ibid., 59.

choice and political and civil liberties; (4) *political liberalism*—the method is proposed as the moral nucleus of a distinctively political idea and of a political consensus among citizens who otherwise possess very different comprehensive conceptions of the good; (5) *constraints on implementation*—the capabilities approach is intended to present a philosophical basis for constitutional principles, but the implementation of such principles is left to particular nations (although international agencies and foreign governments are sometimes justified in influencing such developments toward these constitutional principles).³³ The liberty that a person ought to possess is also clearly defined in the following manner: it is not merely stating that one has rights, but also includes the ability to implement these rights. The structure of a society, material and institutional, would allow for such a function by facilitating these rights through law and social appeal.³⁴ She goes on to state that governments would have to commit themselves to a fair distribution of wealth and income, property rights, and access to the legal system, where resources would be guaranteed to citizens.

Martha Nussbaum advocates for the recognition that a person has only one life to live, and her theory does not require any metaphysical tradition.³⁵ Further, she claims that greater happiness and liberty for one person would not transmit excess happiness or freedom to another person. Her belief is that there is value in each person and that they are worthy of respect as an end.³⁶ This belief is influenced and supported by Kant and Rawls. Thus, the functioning of each and every person is the focus of her theory; she calls this the *principle of each person as end*.³⁷ This is the reason she is critical of the Gross National Product (GNP), because it neglects the distinction that each person has a separate situation, and that situation might not be reflected in

³³ Ibid., 105.

³⁴ Ibid., 54.

³⁵ Ibid., 56.

³⁶ Ibid.

³⁷ Ibid.

the aggregate figure of a nation.³⁸ The GNP treats the maximization of this figure as the most appropriate social goal and basis for cross-cultural comparison; yet, this method neglects the gaps between rich and poor, between literacy and illiteracy, between men and women.

Philosophically, she claims that there are problems with utilitarianism, which she believes shares similarities with the focus on the GNP. Utilitarianism looks at expressions of satisfaction, and that lacks concern for the individual because the utility of the majority is its focus.³⁹ If the only concern is average utility, then the ability to tell us about the various sorts of people and their social placement is lacking. This is insufficient; utilitarianism cannot build a system based on “political principles” that respect the dignity of each person while simultaneously ignoring differentiations between individuals. Additionally, the aggregate of utilitarianism across distinct lives and distinct elements lumps information about liberty, economic success, health, and education together. These are distinct values that should be looked at separately in the hope that none would be forgotten or would increase the success of one capability over another. Again we encounter how Nussbaum insists on valuing all capabilities equally. Utilitarianism lacks an inclusion of all the relevant information; it focuses on total satisfaction and neglects the ability to perform central capabilities.⁴⁰

According to the capabilities approach, there is a distinction between rights and capabilities. Rights are combined capabilities; the right of free speech is considered as a capacity to function. This means that the protected right of the citizen to speak freely is a combination of capabilities that allows the individual to functionally use the right.⁴¹ The combination might be a unification of Practical Reason, Imagination, and Affiliation, where these capabilities combined

³⁸ Ibid., 60-1.

³⁹ Ibid., 62.

⁴⁰ Ibid., 62-3.

⁴¹ Ibid., 98.

create the ability to express freely the thoughts and ideas a citizen might have. This formulation of what a right is goes beyond the basic notion of believing that rights are a justified claim given to all humans. Combining capabilities makes it possible to establish the right and is an effective means of granting a citizen's function of a capability. The language of rights does not mean that the right can be practiced and executed by a citizen; the combined capabilities ensure that there is functionality in the manner in which rights are expressed. The right to property and economic prosperity can also benefit from the establishment of capabilities because it does not merely say: "citizens have a right to property and economic prosperity;" rather, the capabilities approach provides citizens access to these items by looking at how people are ensured these rights.⁴² Capabilities do more than provide a phrase about what people have the right to do; they ensure that there is an actual means for the citizen to function and realize his/her potential. For example, citizens have the right to vote, but only because they have a complex collection of various capabilities to allow them to vote (e.g. the capabilities that allow free movement and affiliation with groups, as well as Thought and Practical Reason). If rights are still debatable and citizens feel at times as though their rights have been violated, then capabilities would be the move to remedy such a problem, and citizens would no longer have their rights impeded because capabilities ensure access to them.

Difference from Rawls

This follows the same argument presented by John Rawls.⁴³ Nussbaum believes that Rawls' approach is a valiant effort towards accomplishing the goal of granting each and every person central capabilities.⁴⁴ Rawls' approach is that there are primary goods—they are, the "things that every rational man is presumed to want," items that any individual would desire in

⁴² Ibid., 98-99.

⁴³ Nussbaum, *Creating Capabilities*, 98-99 & Rawls, *Theory*, 144-153.

⁴⁴ Nussbaum, *Women*, 66.

order to carry out life plans (e.g. liberties, opportunities, and powers) — where self-respect is the greatest good.⁴⁵ However, Rawls view does not argue for these goods to be available for all across nations to enjoy, and the goods are not merely ideas held by westerners.⁴⁶ In an environment where human beings are not allowed to obtain such primary goods, Rawls does little to provide a method to attain such goods. Thus, as a political philosophy, it does little to work toward facilitating capabilities. In addition, it neglects the fact that individuals vary in needs for resources, such as nutrition among the young and elderly. This resources approach fails to diagnose obstacles; those with greater obstacles will need greater resources. Thus the Rawlsian approach neglects differences in individuals.⁴⁷ Nussbaum gives credence to an individual struggle by addressing the following: social context, obstacles presented by social context, opportunity provided, and mental well-being.⁴⁸ In the long run, her approach can be understood to encompass the following: respect for the individual's personal struggle to live, treatment of the person as an end, allowing for choice and affiliation, and concern for the conditions that allow for liberty.⁴⁹ The capabilities approach should be understood as a formula that serves as a framework to gain basic political principles.

The principal differences between the capabilities list Nussbaum provides and Rawls's list of primary goods is the span and definiteness. The capabilities approach refuses to make items such as income and wealth the goal of the person. Issues of health and imagination are a greater concern for Nussbaum than for Rawls. According to Nussbaum, Rawls cannot account for such capabilities because he believes that they are too idealistic and cannot be guaranteed.⁵⁰

Nussbaum responds by stating that a social basis is all that is needed as a goal, politically

⁴⁵ Nussbaum, *Women & Rawls, Theory*, 54-55.

⁴⁶ Nussbaum, *Women*, 67.

⁴⁷ *Ibid.*, 68-69.

⁴⁸ *Ibid.*

⁴⁹ *Ibid.*, 70.

⁵⁰ *Ibid.*, 89.

speaking. In other words, just as self-respect is an item for Rawls in his theory of justice's natural goods, so too are imagination and health, insofar as they are a hope to aim for in an effort to create a life worthy of human beings.

The Capabilities Approach

The central issue of the capabilities approach is the question of what a person is able to do and become.⁵¹ In other words, what are the liberties and opportunities in a society? By comparing the quality of life of one person to another based on the central capabilities, the approach is able to assess satisfaction as well as the actual ability of an individual. In addition, the "necessary condition of justice" must be present in the political relation to citizens' minimum level of central capabilities. There is an intuitive idea behind the approach: (1) certain functions are needed in human life and without them human life is not possible, and (2) the inability to develop the functions results in stunting an individual's abilities, keeping him/her from utilizing them in a human way.⁵² The idea that a human has dignity stems from believing that he/she has worth as an end. To view an individual's experience of tragedies in life is something disagreeable to us, yet it is wonderful to see a person rise above these undeserved occurrences and retain his/her humanity.⁵³ As a result, we understand that we share a common desire in having projects and goals with such an individual, and this leads us to a justification in protecting this person. If a person lacks the capability of central functions, then a person might be judged as not really being human.

The capabilities approach begins with the *principle of each*; that is, capabilities are sought for each and every person, but not for groups of members.⁵⁴ The list of central capabilities

⁵¹ Ibid., 71.

⁵² Ibid., 71-2.

⁵³ Ibid., 72-3.

⁵⁴ Ibid., 74. This is related to the earlier stated *principle of each person as end*, Nussbaum, 56.

does not enumerate actual functions because the list preserves the opportunities for people to choose which functions they value. At this point, it seems that Nussbaum is implying that people are able to hold certain values to a higher worth than others. This allows for certain capabilities to be neglected by citizens and can account for the fact that people have a natural talent for certain capabilities. I will develop this idea further in my next chapter. The list that Nussbaum provides is not a complete theory of justice but represents an “overlapping consensus;” people are able to accept a “freestanding moral core” of a political formation without adhering to a particular metaphysical view, any particular ethic or religion, or even any particular view of human nature.⁵⁵ My own opinion of Nussbaum’s theory here is that not requiring a particular view of human nature leads to an inconsistent view of what the definition of a human being is. This seems counterintuitive to her theory, which is based on the idea of seeing a person as an end, and seems to require an essentialized account of the capabilities. The definition of a human being comes first, as a person is the actualization of the essential makeup of a human being.

The list of capabilities she provides is able to evolve by interpretation and deliberation within societies.⁵⁶ The understanding here is that change does not come overnight but is a processing of fears and concerns of each citizen. In addition, the list is not static and is supposed to be disputed and refashioned. A key aspect that allows for the listed capabilities’ flexibility is what she calls *multiple realizability*—the belief that members of a community or society can, to some extent, construct the capabilities differently according to local beliefs and circumstances. The circumstances concerned could be a way to see that some people cannot afford to accept certain capabilities, as certain capabilities are a luxury. For example, a single mother working two jobs to pay for daycare, food, etc. might not be able to afford to have much say about her

⁵⁵ Nussbaum, *Women*, 76.

⁵⁶ *Ibid.*, 77-80.

own Bodily Integrity, the ability to move freely from place to place; her mobility is dictated by her child. The significance of *multiple realizability* is that it leaves room for reasonable pluralism.⁵⁷ Capabilities are related to one another in a “complex” manner. Some of the listed capabilities would be part of what John Rawls calls “natural goods,” and granting such capabilities to all citizens by their government would not be possible, but sometimes they are acquired by luck.⁵⁸ Society can provide only the social basis, or opportunity, to gain the good, but not the good itself. For instance, a government cannot grant health (the good) to all citizens, but it can be influential in educating citizens in how to be healthy and in providing resources. Public policy is a great tool, but it does not have absolute power. There are factors that can make policy ineffective.⁵⁹ These factors could be something as simple as pride; for example, a person might not have money at the end of the month for rent but will refuse to ask friends or public services for help.

Reason Over Functioning

However, it is still the case that functioning—the act of participating and executing a capability—is not the appropriate political goal; rather, the goal ought to be capability, according to Nussbaum. Reason is something that is necessary for making the capabilities characteristically human capabilities. Emphasis is placed on the value of the Practical Reason capability. Nussbaum states that practical reason is “a good that both suffuses all the other functions, making them human rather than animal, and figures itself as a central function on the list.”⁶⁰ If her theory were oriented towards functioning, it would mean that the theory was compulsory and would make the lives of citizens less human in some way.

⁵⁷ Ibid.

⁵⁸ Ibid., 81.

⁵⁹ Ibid., 82.

⁶⁰ Ibid., 87.

In contrast, I believe that the function of a capability makes a life fully human. Governments should hope for citizens to achieve the function, because, without the function, there would be merely the opportunity itself and nothing else. Thus, without the successful completion of actualization the capabilities approach could not be satisfactory.⁶¹ The problem I see can be presented in the issue of having a theoretical math; without having application to our world, this sort of math would surely be of little to no value. Capabilities without the ability to function would also be of little to no value. Nussbaum also values individual freedom and thus wants to allow the choice of capabilities. The government aiming for functioning as a political goal is not possible, she believes, because then capabilities would be obligatory for our citizens to fulfill and realize as part of their human functioning. The difference between allowing the function and securing capabilities is the same as the difference between fasting and starving. Her concern is to ensure that citizens are not coerced to perform actions that, although good for them, lack a principle of respect for the individual, because choice and freedom are not allowed.

Nussbaum goes on to explain the significance of functioning; it is what makes life human. The role of the government is not to make citizens exercise these central capabilities, but merely to furnish the opportunity for citizens to achieve them. The distinction that she wants to make is the possibility for a person to abstain from exercising his/her capabilities, versus having a person oppressed and deprived of the capabilities. For example, a cancer victim might choose not to take painful medicine, but as a consequence he/she will shorten his/her life expectancy. The negative version of this would be intentionally withholding the cancer victim's medication without his/her consent. Her aversion to functioning is that she wants to maintain respect for people and their choices. There is no respect when we coerce people into functioning in a

⁶¹ Ibid.

manner we believe to be a “flourishing life.”⁶² In Nussbaum’s belief, arguments and accessibility seem to be the most that we can do in order to provide a choice for people and to ensure that we do not force them into our beliefs.

The capability Practical Reason is significant, along with Affiliation, Nussbaum believes, because they organize and permeate other capabilities.⁶³ The exercise of these two capabilities is indicative of human life. She goes on to state: If a person were unable to prepare his future with rich methods such as “discourse, concern, and reciprocity” with another person, then this conduct would be inhuman.⁶⁴ A functioning human is only possible with these two capabilities, as they allow him/her to be rational being and not merely a mechanical object. So “being human” is something we achieve. This functioning acknowledges humanity. However, it is not the case that capabilities can be reduced to these two capabilities; rather, Practical Reason and Affiliation are rooted in each capability.

Nussbaum believes that through the capabilities approach humans can gain the “right educational and material support,” the opportunity to become thoroughly adept in all the listed human functions.⁶⁵ This seems to assume that there is a method to educating people on not merely what the capabilities are, but on ways to perform certain capabilities. Nussbaum emphasizes that her theory does not assume an objective form or style of performing a capability. However, if there is a “right educational and material support,” it seems there would be a right form to functionally perform a capability. In this matter, Nussbaum needs to clarify how she would avoid indoctrination and really advocate for education. When deprived of those basic capabilities (i.e. Bodily Integrity) personal gain to acquire the higher-level capabilities is

⁶² Ibid., 88.

⁶³ Ibid., 82.

⁶⁴ Ibid.

⁶⁵ Ibid., 83.

hindered, because of an individual's lack of a basic human life. As mentioned before capabilities can grow and develop. Without this growth, the capabilities are not nourished and transformed into higher-level capabilities due to the blighting of the opportunity to develop.⁶⁶

⁶⁶ Ibid.

III. FUNCTIONING AND METAPHYSICS

The capabilities approach deals with what a person is able to be and achieve.⁶⁷ The liberties and opportunities in a society are its concern. Unlike other theories that aim to ground human rights, or political and economic justice, the capabilities approach does not rest on maximization of interests or benefits, nor does it rest on an account of innate rights or a social contract. Instead, it compares the quality of life of one person to another based on the central capabilities – those aspects of human living that are necessary for a decent life. The approach assesses the fulfillment that individuals can achieve through actualizing an ability they possess. The basic groundings of the approach are: (1) certain functions are needed in human life, that are essential to human life, and (2) the failure to develop the functions causes arrested development in the abilities, thus keeping him/her from using the abilities humanely.⁶⁸ An idea connected with the capabilities approach is that humans are worthy of dignity; each individual is as an end in him/her self. One way we become aware of, and alert to violations of, common human capabilities, is through experiencing and witnessing tragic events. An individual's tragic experience produces a sense of something wrong and non-ideal for a human; in addition, seeing a person overcome tragedy produces an awe-inspiring feeling in us.⁶⁹ In these moments we comprehend that there are shared desires in the plans and ambitions we have with other individuals. Thus, we are led to justify protecting other individuals because of these shared experiences, goals, and projects. Nussbaum's theory wants to establish that when a person lacks the capability to fulfill central functions, a person is not living a human existence.⁷⁰

The capabilities approach starts on the basis of the *principle of each* which means that

⁶⁷ Nussbaum, *Women Human Development*, 71.

⁶⁸ *Ibid.*, 71-2.

⁶⁹ *Ibid.*, 72-3.

⁷⁰ *Ibid.*, 71.

capabilities are not sought for groups, but instead for every individual person.⁷¹ The central capabilities list is not an itemized catalog of actual functions; rather the list protects the chances for people to choose which functions they value. This list of the capabilities that Nussbaum presents is an incomplete theory of justice that represents an *overlapping consensus*; people are given the chance to accept a moral core without metaphysical beliefs, a singular ethic or religion, or any one version of what human nature is.⁷² As I will develop below, one of my arguments against Nussbaum's theory rests on this emphasis on a moral core without metaphysical ground.

One claim Nussbaum makes is that the capabilities list might change through different formulations and debate from within societies.⁷³ The list is not supposed to be fixed and is created with the intention to be questioned and molded. The listed capabilities have a malleable nature that contributes to *multiple realizability*. People can exercise the capabilities in different ways in accordance to their values and conditions. The situations and conditions of those working with developing a specific set of their capabilities might be able to help other individuals who cannot relinquish their beliefs in order to accept certain capabilities, or who simply might not have the comfort of executing a certain capability. The example I used earlier claimed that a single mother working multiple jobs to pay for their child's expenses could not have much input regarding her own Bodily Integrity. The ability to move freely is dictated by her child. The beauty of *multiple realizability* is that it allows for some plurality.⁷⁴ The capabilities are linked together. Certain capabilities are what John Rawls called "natural goods," and providing these capabilities to all could not be feasible for the government; however, they might

⁷¹ Nussbaum, *Women*, 74. This is related to the earlier stated *principle of each person as end*, Nussbaum, 56.

⁷² Nussbaum, *Women*, 76.

⁷³ *Ibid.*, 77-80.

⁷⁴ *Ibid.*

be earned by chance.⁷⁵ A society, according to the capabilities approach, can only give the opportunity to the good, not the good itself.

Even though Nussbaum admits “that functionings [acts of fulfilling a capability], not simply capabilities, are what render a life fully human,” she wholeheartedly believes that citizens must be free to choose their own life; making functioning the political goal would be a failure for the citizens.⁷⁶ If the capabilities approach aimed towards functioning, then the theory’s capabilities would be compulsory and would make the lives of citizens less human because they no longer had the option to opt out of the capabilities provided. However, I believe that the functioning of a capability, the act of executing a capability, is what makes a life fully human. Nussbaum would agree with this statement because she claims that without the successful completion of actualization the capabilities approach could not be.⁷⁷ In the next sections I will identify problems with Nussbaum’s version of the capabilities approach: 1) that it fails to adequately value functioning by a) privileging capability all the while and b) demanding or positing functioning, 2) that by demanding moral values without metaphysics it fails to respect some choices and ways of life. Each of these problems is tied to the fact that the capabilities approach gives a central place and value to individual self-determination and choice, while also making demands that infringe on that very self-determination.

Functioning Over Capability

The following argument is one for functioning, in response to Martha Nussbaum’s capability over functioning argument. Nussbaum’s approach believes that each person is worthy of equal “respect and regard” even in those cases where people have no self-respect.⁷⁸ If this is

⁷⁵ Ibid., 81.

⁷⁶ Nussbaum, *Women*, 87.

⁷⁷ Ibid.

⁷⁸ Nussbaum. *Creating*, 35.

the case then this might contradict her beliefs that the approach does not focus on functioning. Functioning is part of capability, while it can mean there is a capability; a capability does not imply a functioning. The functioning of a capability is the working realization of a capability.⁷⁹ The belief that an individual has a worthiness of equal “respect and regard” when the individual does not have the same sentiment is an act of functioning over capability. Considering people with a quality they lack, for instance a desire of theirs not to feel respect or regard, forces these individuals to have that very quality. The individual lacking self-respect has, Nussbaum argues, the capability to do so. Nussbaum implies that the approach believes these individuals have the capability to do so because without this capability there would be no way for the approach to regard the individuals as worthy of and having respect. So, the problem is this: some people lack sufficient self-regard and self-respect. For these people there is a failure in functioning. In some cases it means they actually believe themselves unworthy of respect and regard. Nussbaum attempts to focus on bare capabilities, and in so doing she argues that everyone has the capability to be worthy of respect and regard, and hence deserves respect and regard. Now, what does this present? We might wonder what it means to say that an individual has a capability for respect and regard in this case. What does it mean to have this capability? If it means merely some abstract potential, then this seems neither very interesting (nor is it in any way testable), nor does it seem sufficient ground for human dignity. Further, since these people believe themselves unworthy, what does it mean for the principle of respecting others to demand that they are in fact worthy, that they for in fact deserve respect and regard? It seems that her position demands ascribing to persons something they reject about themselves (hence, denying their dignity and self-choice), or it presupposes a certain minimal level of functioning.

The capabilities approach is thought to be a positive alternative because it values freedom

⁷⁹ Ibid., 25.

of choice in its notion of capability.⁸⁰ The approach goes against this belief when it gives those individuals who do not believe they are worthy of respect such regard. I should state here that I agree with giving individuals respect. The point I am attempting to make is that functioning must sometimes be enacted first before capability can really be produced. The capabilities approach cannot *function* without giving the individuals it aims to help a little bit of functioning in applying dignity to respect and regard to individuals. This would be keeping with her neo-Aristotelian perspective. As Aristotle argued, “For the things we have to learn before we can do them, we learn by doing them...”⁸¹

Without some functioning the approach will fail to fulfill certain capabilities, specifically those capabilities that might not be intuitive, or perhaps in those cases where an individual has been so sheltered from and/or reeducated about the diversity of knowledge in the world. An example of an intuitive capability might be the capability to Play. Children given free range to do what they want would show you that this capability requires very little effort and perhaps no prior knowledge to conduct. It would be wise to make note that there would obviously be safe and dangerous versions of the capability of Play, but for the most part we can participate in it from our earliest stage—infancy. In order to get an individual to realize what might be good about the world there needs to be some sort of push to explore those capabilities that are now provided. Individuals must overcome the fear of the new; they cannot simply believe that something is worth their while. Instead, what must be done is to show that the capabilities themselves are not enough but that when realization is actualized it gives an individual “respect and regard”. In *Women and Human Development* Nussbaum claims there is no respect in forcing

⁸⁰ Ibid., 25.

⁸¹ Aristotle, *Nicomachen*, 28-9.

people into functioning.⁸² While this might be her objection to my claim here, I feel that function supersedes respect in the case in which an individual is respected when the individual feels undeserving of respect. Respect is included in certain emphasized capabilities in which functioning is necessary in order for the individual to fully appreciate the capability, or realize the individual's own personal flourishing.

My concern with the emphasis of capability over function, rather than functioning itself, is based on the belief that certain capabilities need to be actualized before they can be considered capabilities. This necessity of actualization is most evident is the capability of Life. It is most evident because life is so unique that it is inherent within living that the existence of the capability includes the mutual, if not the foremost, existence of functioning in the capability of Life. If a person were to merely have the ability to live a life and not actually be living it, then the capability would not actually exist since the basic notion of a life would include living. In these instances, in which the actualization must occur in order for the capability even to exist, a contradiction can occur if the capability is the only goal achieved. The contradiction is that without functioning there is no capability and the capabilities approach fails to provide capabilities due to lack of emphasis on functioning and actualization.

I do not know if there would be some way to modify the capability of life in order to avoid forcing functioning upon an individual. It seems that Nussbaum might find euthanasia permissible, as she is in support of an individual's choice to fast, but not to starve.⁸³ The conditions in which people would choose to kill themselves might be her concern though. If an individual feels so burdened by problems unrelated to illness and suffering then perhaps she would inquire into what sort of tragedies an individual is facing that would lead the individual to

⁸² Nussbaum, *Women*, 88.

⁸³ *Ibid.*, 87

a death by suicide or euthanasia. Nussbaum wants an individual to be able to function in a way that meets at least a minimal human existence. If this minimal human existence is not met, I believe, then certain individuals, perhaps those who are lacking self-respect and regard for themselves, might be influenced to make an effort to terminate their lives. Nussbaum would be concerned for such individuals who are hindered from fulfilling a minimal human existence. The failure here would be one of social structures, failing to provide the conditions of possibility for a life of self-regard. But, this seems to mean creating social structures that will push people toward certain sorts of functionings (not that this is a bad idea, but it seems in tension with Nussbaum's view).

If human existence is based on capabilities and not on functioning, then I fear that there will not be a minimal human existence to be achieved. Perhaps forcing functioning on certain populations that have been so grossly deterred from basic human capabilities and functioning might be justified; such societies might need social structural support. I will discuss this possibility in the following paragraphs, using examples to show how functioning might be something that their life has been missing, not merely something else for them to do, but something more for them to do.

I will use the elections in Afghanistan after Taliban rule to show an example of the difficulty of having a capability without the functioning of that capability. In Amy Waldman's New York Times' article, "Fearful Choice for Afghan Women," she examines the particularly troubling issue of women voting in the first Afghanistan presidential election post Taliban rule.⁸⁴ The fear most women had was that insurgents would physically threaten the election by attacking voters before and during voting. This was not the only fear; rather, it was compounded by the fact that women would feel as though they dishonored their families if they were to die outside

⁸⁴ Waldman, "Fearful Choice".

of the home. The registered women voters, only 10 percent of registrants in certain regions of Afghanistan, were confused by all the rumors of possible attacks and of the shame it would have brought if they were killed while voting. The confusion led to concerns over whether their voter registration would be nullified if they choose not to vote.

This news report gives an example of how a government grants a capability, but neglects the realization. The women voters were given little to no training about the democratic process, and yet were expected to participate in an activity that was illegal years prior. Further, social structural support that would allow women to safely vote was lacking. The lack of response to the actualization of voting makes the capability to vote a moot point. Their newly implemented capability cannot be actualized due to a limited understanding and restrictive attitudes towards women's rights. If the capability were to be fully established the government might realize that there would be voters who need a certain hands on approach in order to understand the act of voting and its value. Otherwise, the implementation of a newly democratic government might seem like merely another influence from western culture, something that is not always viewed as favorable.

A possible response from Nussbaum could be that the capabilities approach is being represented in the Afghanistan elections in an effective manner. The women do have the right to choose to vote or not to vote, and while the voter registration among women is low, it is still progress given that it was once zero percent of the population. There is no forcing of participants to vote and this is a positive attribute of the capabilities approach. However, what she fails to see is that the capabilities approach is not providing women comfort to actually vote, thus leading to contemplation of not voting. This fear could lead to minimal actualization of the capability. This limited actualization then cannot fully be a capability because not all women felt comfortable to

vote, thus lacking the security to have a full capability. Instead these women voters have a shell of a capability where they still must figure out how it works and if it works. Before a capability can be deemed a capability it should be tested to see whether participants can enjoy the capability to its fullest extent without harsh ridicule or realization. If participants in the capability cannot comfortably participate in actualizing the capability then it is not a capability. Threats from participating and misunderstandings of capabilities are not securing the actualization of the capability, and without this insurance there cannot be any real capability. The failure here of the capabilities approach is that it is actually determined by the actualization, and functionality, because without this part the capability is merely an illusion of what Nussbaum hopes will raise individuals' value and dignity.

Perhaps what is missing is a method for promoting the capabilities approach to reach past the fears of those not familiar with a new capability. It might be the case that some individuals would have an inherent ability to perform certain capabilities. The new Afghan voters will not inherently know how to use a voting machine, or perhaps a ballot. However, most, if not all, citizens in the United States will understand how voting works because of how it is embedded and continually used in our society. Voting is introduced to students in government classes and its value within our culture and history is emphasized. While the expectation for voters in America might be that once at the polling station you will know how to use the ballot or voting machine, the expectation for those in Afghanistan cannot be the same. I believe Nussbaum recognizes that new voters in post Taliban rule Afghanistan will not have the same comfort level with voting as Americans, but that is why the capabilities approach is so unique. It is capable of applying the capabilities in diverse ways.⁸⁵

What the political state lays down is the groundwork for people to secure the

⁸⁵ Nussbaum, *Women*, 105.

actualization, but it does no more than this. There might be groups of individuals who cannot invest the time from their lives to encounter new capabilities; these individuals might be left on the fringes of society. In particular these individuals might work long hours to make ends meet, or have family obligations that do not afford them the time to learn or add new attributes to their lives. I am speaking of a phenomenon where those in most need of services or help often decline to fight for their own sake because they are unable to defend themselves given time restrictions, or perhaps because their voices are deemed insignificant by those in control. Any effort towards change might not be from the individual affected by a situation, but rather by outsiders who regard the situation as unacceptable. Nussbaum's theory is unable to resolve this issue, because it aims at merely providing the choices one has rights to engage in, but not the execution of the capability in reality. Individuals who are unable to speak for themselves cannot be giving a voice by Nussbaum's theory, because it focuses on individuals to such an extent that they are the only ones to execute a capability for them. In other words, the individual cannot be assisted by persons who might have time available to fight for others' causes. As a consequence, the individual is ultimately lost in hope to achieve a full human existence outside of their current situations, if it is less than the minimal threshold.

Rejecting Metaphysics

In the absence of metaphysical beliefs, that is, in a state of *nonmetaphysical* belief, many who adhere to a metaphysical belief would actually have to deny their beliefs to follow the capabilities approach. The capability theory's *nonmetaphysical* belief actually requires its participants to compromise their metaphysical, and at times cultural, beliefs in order to make an effort toward the capabilities approach's human-nature-neutral post-metaphysical claims. In this case then, there might actually be a particular view of human nature embedded into the

capabilities approach that Nussbaum fails to recognize. As a consequence the capabilities approach is contradictory to its claim of not having any definition of a human nature assumed by its account of what a human being is. Thus, acting in accordance with the view could fail to respect the idea of seeing a person as an end because then the individual is prescribed in the definition of the capabilities approach as *nonmetaphysical* and living a human-nature-neutral existence.

The capabilities approach as Nussbaum presents it in *Creating Capabilities* starts out with a discussion of the tragic life of Indian woman Vasanti, whose husband is a violent, gambling alcoholic.⁸⁶ Vasanti is uneducated and unable to completely understand her nation's history, the state of political and economic affairs, along with not being able to partake in the pleasure of literature and other enriching activities. Within these beginning parts of Nussbaum's theory is an acknowledgement that there are other factors at play in one's life than merely right or wrong. Right and wrong loom large, and are important; however, there are also our relations to cultural norms in "anthropology, history, psychology, and to the natural and humanistic sciences in general." All of these connect to form a proper human capabilities approach. We find this evidence in Vasanti's case of being part of a particular cultural group (Northwestern India) that is fairly influenced by a metaphysical belief (Hinduism) operating in a political sphere. It is precisely these cultural norms, tied to metaphysical beliefs, which Nussbaum fails to recognize.⁸⁷

In the capabilities approach a metaphysical recognition is misunderstood or given little credence. For Nussbaum the capabilities approach is without a particular metaphysical basis due to the belief that all individuals are able to find a connection to their common way of life,

⁸⁶ Nussbaum, *Creating*, 2 & 7.

⁸⁷ John P. Clark, "Capabilities Theory and the Limits of Liberal Justice: On Nussbaum's *Frontiers of Justice*," *Human Rights Review*, 10, no. 4 (2009): 586.

whether it is one guided by religion or is secular.⁸⁸ This unification is from the *overlapping consensus* element of the capabilities approach. The idea is that different worldviews and practices overlap, and that within this overlap there is agreement. In this case, the hope is that there is an agreement between the religious and secular ethical doctrines that will allow for a consensus on their conception of the good life, an idea of being accepting to those who are different, or to the “major conceptions of value”.⁸⁹

If the *overlapping consensus* were to unify the seemingly distinct two groups—those who ground a way of life in particular metaphysical, often religious beliefs, and those who have a secular grounding—then there must be some assumptions that Nussbaum makes. She assumes that there are only two groups, and not really any sort of place for those individuals in the middle, perhaps like some who follow a spiritualist path—who are not completely religious and not completely secular. The irony of this over-looking is that the consequence of the *overlapping consensus* would make it so that those who were strict adherents to a particular faith would have to become accepting of others without their faith and perhaps give up part of their beliefs for the political purpose of the capabilities approach, which aims to empower women. There is also the same consequence for secular participants in the capabilities approach, if they were perhaps strict atheists, they might have issue with conceding certain preferences they were once adamant about, such as not having their children taught intelligent design in schools.

While the *overlapping consensus* might be too restrictive to those with extreme metaphysical beliefs and extreme secular beliefs, it does so in order to allow for an acceptance of all individuals rather than a denial of some individuals. However, if this is the case then there seems to be a major flaw with the capabilities approach’s initial aim in maintaining that it argues

⁸⁸ Martha Nussbaum, *Frontiers of Justice Frontiers of Justice: Disability, Nationality, Species Membership* (Cambridge, MA: Harvard University Press, 2006), 79.

⁸⁹ Nussbaum, *Frontiers*, 163.

for an “international political and economic thought that should be feminist”.⁹⁰ It would have to deny this aspect in order to reconcile the approach with certain cultures where religious doctrines denying the full equality of women are part of the political sphere that oppresses women; or, the capabilities approach will have to deny the possibility of working for such groups.⁹¹ Take for example the case of Afghan women voting. Their culture is based on a long tradition of metaphysical beliefs influencing their way of life. Moreover the women have to worry about the possibility of dying outside of the home—a death that dishonors their family, so some opt not to vote because of this oppressive belief.⁹² Now what the capabilities approach would have to claim is that either the oppressive cultural beliefs that provide little motivation to leave the house to vote are acceptable, or it denies the validity of this metaphysical grounding in that culture. It seems to do the second, denying the metaphysical belief grounding, because the capabilities approach will not allow for systematic oppression. While such a position might be consistent with the demand for justice, it is not consistent with the claim to be metaphysically-neutral. Essentially, the capabilities approach’s metaphysically-neutral effort leaves it up to orthodox sects of religious orders to deny their oppressive natures; thus, resulting in an absolute denial of those traditions that cannot see others as truly equal. In Michael Skerker’s work he claims that the groups that live in such a dogmatic lifestyle are precisely the individuals that the capabilities approach should aim at, in order to help address oppressive and exploitative behavior.⁹³

The counterargument that Nussbaum could make to this is that the capabilities approach serves a political purpose, not a theological one. Groups and societies guided by metaphysical doctrines might change, sometimes in an effort to be more inclusive or to end inequality among

⁹⁰ Nussbaum, *Women*, 4.

⁹¹ Michael Skerker, “Nussbaum’s Capabilities Approach and Religion,” *Journal of Religion*, 84, no. 3 (2004): 384.

⁹² Waldman, “Fearful Choice”.

⁹³ Skerker, *Nussbaum’s Capabilities*, 385.

their particular groups.⁹⁴ Some examples of this change include the reformations of Vatican II in the Catholic Church, which no longer required the masses to be in Latin and women no longer to wear the veil in mass. These changes came in time and helped make approachable seemingly unapproachable groups. The groups would otherwise be left out on the fringes of society because of their lack of equality and archaic nature. Further, while Nussbaum might claim that the capabilities approach is “not to conflict with key metaphysical doctrines of the major religions;” we must recognize that those particular oppressive restrictions of women in Afghanistan, and in other groups across cultures are heavily influenced by metaphysical doctrines that are interpreted to justify the oppression.

The point is that there is a lack of clarification, or recognition, of metaphysical beliefs within the *overlapping consensus* as she presents it. The acceptance of the capabilities approach requires individuals, secular and religious, to recognize that there are some similar values among their personal beliefs. Her focus is on the public institutions of a culture, but everyone is influenced by his/her perception of the capabilities. If her concern as a feminist is the “worst off,” then she would have to see how individuals perceive the “worst off” and their desires. Desires influenced by culture, specifically, make up a lot of our choices, making it a variable in each individual’s life. In order to make the system equal across the board, you would have to analyze and critique every group by Nussbaum’s listed capabilities.⁹⁵ For instance, poverty looks different among groups, even within the same country, and to analyze and critique would not be possible between groups like monks that choose poverty versus groups that lose savings and face poverty ill prepared. The desires are different between the two groups, and the idea of stability would be different as well. Perhaps monks could face poverty with an attitude that does not make

⁹⁴ Nussbaum, *Frontiers of Justice*, 391.

⁹⁵ This is an argument I will make in Chapter 3.

the reality seem so harsh, but the groups that lose their money have to deal with losing their security and stability. What we desire, and what would count as “better-off” might not be universally specifiable, especially if we defer to local beliefs and practices.

Her promotion of equality and condemnation of inequality are so strong that she expresses an honest flaw of diversity by critiquing how tolerance is not a reason for avoiding her normative philosophy. This is because cultures, and their traditions, often exhibit intolerance of diversity; if we were to hold diversity so highly then this would actually be counterproductive in the promotion of diversity itself. She states: “By making each tradition the last word, we deprive ourselves of any more general norm of toleration or respect that could help us limit the intolerance of cultures”.⁹⁶ The argument here is that, even though diversity is rich in every culture, it has to be viewed in a manner that is consistent with her normative theory. If inequality is part of the norm established by a government in a society that has harsh traditions, then it is not held accountable for injustices by majority ideology. In *Frontiers of Justice* she states the following in regard to political principles; “Doctrines of the social contract have deep and broad influence in our political life. Images of who we are and why we get together shape our thinking about what political principles we should favor and who should be involved in their framing”.⁹⁷ According to Nussbaum, there is great responsibility in how we delegate power, legislate laws, and respect citizens within a society. A society can gain great rewards from the progressive legislation of diversity and equality. However, the value of diversity does not permit a universal system for measuring injustices that originate from particular beliefs or practices within a culture. If diversity were regarded over equality, then inequality would arise out of certain areas in various cultures. This should be avoided if an individual is to advocate for equality in a

⁹⁶ Nussbaum, *Women*, 49.

⁹⁷ Nussbaum, *Frontiers of Justice*, 4.

normative fashion. Yet she states that the government does have limitations in coercing change. The example she uses pertains to the fact that women are not allowed to be Catholic priests. She believes that the government could not force the Catholic Church to hire a female priest.⁹⁸ The concern here is that she is being ambiguous on affairs where the government might step in. Nussbaum aims for equality, where equality is “all citizens being fully equal and being equally respected by the society in which they live”.⁹⁹ Her sense of equality is making sure that everyone is brought above a certain threshold with respect to particular central capabilities.¹⁰⁰ However, this equality seems to go against her initial goal of arguing to change the situation of those women who are worst off in most nations while also respecting diversity and maintaining a metaphysically-neutral view.¹⁰¹ Further since she explicitly limits the reach of governments, the mechanism for achieving equality is lacking. And, here again we find that change is 1) resting with individuals who might need to question their own metaphysical beliefs or challenge group/cultural norms, or 2) groups that will either reject the claims of the capabilities approach or question and likely change grounding metaphysical beliefs.

Moreover, there seems to be an inconsistency in this acceptance; in fact, the theory might regard diversity too highly to make a case for a normative theory for equality or social change. She states that her listed capabilities are susceptible to change and interpretation by different societies.¹⁰² Some items on the list might look different in other cultures; she builds this into her theory through the *multiple realizability* element. For each capability, there might be many ways to realize it, multiple manners of flourishing. Again, this allows members in a society to practice local values that adhere to the threshold of the capabilities proposed. The assumption she makes

⁹⁸ Nussbaum, *Women*, 228.

⁹⁹ Martha Nussbaum, *Liberty of Conscience: In Defense of America's Tradition of Religious Equality* (New York: Basic Books, 2008), 19.

¹⁰⁰ Nussbaum, *Women*, 86.

¹⁰¹ *Ibid.*, 4.

¹⁰² *Ibid.*, 77.

is that each tradition in a society would eventually evolve and meet the threshold to which she holds the capabilities, if “interpretation and deliberation” are involved. This evolution to an acceptable minimum in capabilities should not be assumed. Individuals can deliberate but a positive movement towards equality is not always the end goal. *Multiple realizability* does not take into account how those in power might have prejudices that breed more inequality and injustices, nor does it account for how metaphysical beliefs might ground inequalities and oppressions. Nussbaum addresses this issue by stating how the universal measure component of her theory shows how certain nations fail and a governing body like the United Nations might step in and involve itself with assisting those citizens who are oppressed. Still, the consequence is that the normative standard is not fulfilled and cannot be assumed successful if certain cultures have based their systems on some sort of inequality. The measuring system of the theory, *comparisons of life quality*, gauges various nations’ ability by calculating how well citizens are being treated in comparison to other nations.¹⁰³

The ability to measure success is significant because we can see how certain societies uphold different capabilities at different thresholds, but she does not allow for there to be the “removal” of a capability in order to provide for another.¹⁰⁴ Since she allows for different interpretations it seems that there would in fact be variation in the valuing of certain capabilities. The threshold of a capability in one country might be conceived differently in another. For example, a woman living in United States has the right to drive a vehicle; however, the right is taken away if she moves or travels to Saudi Arabia because the capability of *Bodily Integrity* is “constructed” differently in the two nations. This is an example of *multiple realizability* and helps give her theory a defense against those who object that her capabilities approach is

¹⁰³ Ibid., 6.

¹⁰⁴ Ibid., 211.

imperialistic on cultures different from her own.¹⁰⁵ However, there still is an underpinning normative force in Nussbaum's view because she does believe that if the women's ability to move freely is taken away, part of the condition of the capability, then the political state has failed in securing the capability of *Bodily Integrity*.

Her argument reveals the complexity of a normative theory and its relation to diversity. It is plausible to say that diversity ought not to be the only factor when discussing a normative theory, since the basis of a normative theory is to make it an equal standard for all individuals who are of rational thought. I believe this is a particularly interesting aspect about her theory in that she does make room for *pathos*. It is not merely reason at play in our ethical judgments, but there is a parallel force bringing us into making choices that help alleviate the suffering of others. She believes we see value in a person. She states: "For we see a human being as having worth as an end, a kind of awe-inspiring something that makes it horrible to see this person beaten down by the currents of chance – and wonderful, at the same time, to witness the way in which chance has not completely eclipsed the humanity of the person".¹⁰⁶

My objection to this is that there would have to be a shift to functioning rather than capabilities; those capabilities that cannot be granted in the absence of an actual execution of their functioning. For instance, without functioning of the capability *Life* would just be an abstract idea, the capability would require functioning because there would be no living, thus no capability of *Life*. Thus, we again encounter the issue raised in the first section of this chapter, the difficulty of maintaining a priority of capability over functioning. An emphasis on functioning would be a truer representation of granting a capability because it is the realization of proof that the capability exists among a group of citizens, and not only formally. In Cuba's

¹⁰⁵ Ibid., 77.

¹⁰⁶ Ibid., 73.

constitution, chapter one article one, states that "... [Cuba is] organized with all and for the good of all, as a united, democratic republic, for the enjoyment of political freedom".¹⁰⁷ They have the capability of political freedom written into their constitution, yet Fidel Castro was president for over thirty years. It seems that the totalitarian regime had a constitution that enshrined certain human rights never fully realized within the citizenry. If actualized the capabilities are not merely mentioned in a country's constitution, but are represented in the actions the citizens take and the choices they make. The way to implement functioning in the capabilities approach is by having those countries that accept it in their political sphere compare themselves to the countries that do make use of the approach. The factors to look at are whether people have access to reaching particular goals and if in fact they are reaching them. It is not a survey of how many laws protect the citizens, rather, the question is whether the citizens are actually functioning and able to live. If those living under the capabilities approach are not actually fulfilling any of their capabilities, then the theory might not be working and might have to be reevaluated, possibly abandoned.

If one of the capabilities approach's intentions is to replace, or be an alternative to, the GNP per capita form of assessing quality of life, then it actually has to set standards itself.¹⁰⁸ It has to set these standards of minimum threshold and reject the *multiple realizability* and *overlapping consensus* elements, given that there would be issues with comparison. Cultures, even within the same country, could develop the capabilities with such great variances that the comparison function of the capabilities approach could not be utilized. An example of this might be the differences in unit measurements between the metric system and the American system. The metric system does not seem to create any problems in the structures of Europe. While there

¹⁰⁷ "The Constitution of the Republic of Cuba, 1976" last modified 2009, <http://www.constitutionnet.org/v1/item/constitution-republic-cuba-1976-amended-2002>.

¹⁰⁸ Nussbaum, *Women*, 60-1.

is a conversion from the metric system to the American standard, there really is no such conversion system for capabilities. The way one country could see the capability *Bodily Integrity* could look like no women are allowed to drive, but they have access to hire drivers to escort them. The allowance of variances would make the comparability function of the capabilities approach impossible.

IV. CONCLUSION

This section will assess the failings of the capabilities approach in order to make an attempt to resolve 1) the lack of emphasis on functioning of the capabilities and 2) the rejection of metaphysics. My goal here is to show that a minimum threshold and proliferation of choices will not be conducive to success in providing citizens with a basic level of capabilities. Instead, either choices must be denied in the capabilities approach, perhaps merely limited to a severely low number, or, the criterion of a minimum threshold must be eliminated from the approach. Additionally, I will draw on the Aristotelian Principle to enhance our understanding of the capabilities; the addition is from Rawls' work and might provide a practical means towards the promotion of justice and human capabilities.¹⁰⁹ I will argue that Nussbaum's theory could benefit from the addition of Rawls' Aristotelian Principle: human beings benefit from their realized capabilities (their innate or trained abilities), and the enjoyment from these increases with the capability realized or with its degree of complexity.¹¹⁰ The Rawlsian idea coincides with Nussbaum's emphasis on the dignity in humans, and is in keeping with the general Virtue Ethics orientation of her view. I will argue that from it her view is reinforced and resolves some of its failures.

From my critique of Martha Nussbaum's capabilities approach I have established that it does not succeed in providing citizens anything further than the permission of having capabilities, a purely formal condition. Functioning in addition to capabilities is important, indeed crucial. My proposal is that the capabilities approach might need to choose between a minimal threshold and choice. Both of these are supposed to be priority goods under the Capabilities Approach—assuring access to a minimal threshold *and* securing and maintaining

¹⁰⁹ Rawls, *Theory*, 372-80.

¹¹⁰ Rawls, *Theory*, 374.

room for substantial individual choices. Actually executing a capability fulfills the desire of having human capabilities—that which people are actually able to do and be.¹¹¹ In this I assume that lawmakers also have the ability to choose and enforce certain capabilities over others. If citizens are not convinced of accepting, living by, and fulfilling the capabilities in their own lives then it seems that legislators, who are also citizens, could be unconvinced to establish the capabilities in their society if they *choose* not to. The citizens are relying on their lawmakers to provide them with the laws that would allow them to realize the capabilities, function. The government’s legislators could deem that the capabilities listed would not be suitable for their culture because of *multiple realizability*, the various ways to conceive of the capabilities given circumstances and traditions of a culture.¹¹² Thus, the capabilities approach would fail to establish itself due to its lack of enforcing the capabilities and how they might be conceived in one country versus another. With such great variance in conceiving capabilities it seems that one country might not have any capabilities when compared to another, given that one formulation might lack certain features that other formulations implement. In addition, any citizen could make a choice to opt-out of using a capability. The approach might collapse on itself because it allows people to decide if it works for their culture, in a particular day and age, within their society. If they decide that it cannot work for them, then it seems like the capabilities approach has nothing to motivate or convince citizens, and legislators, to accept it, since they can decide not to take on the approach. Thus, its *multiple realizability* might deny the approach’s own survival and acceptance. If you can opt out of the approach, then how can it be sustained?

In addition, the minimum threshold, that is, the level at which a capability must be met in order for a person to be considered as living a truly human life cannot coincide with the

¹¹¹ Nussbaum, *Women*, 87.

¹¹² *Ibid.*, 105.

emphasis of choice since an individual living with no capabilities would be judged as “not really a human being,” even if such a person has many formal, or procedural, choices.¹¹³ Nussbaum claims that functioning is what makes a life fully human, but fails to recognize that the choices she allows might prevent an individual from meeting the minimum threshold.¹¹⁴ This is due to the fact that given certain beliefs a person has, he or she might choose against the capability and against the minimum threshold. For example, some individuals who follow a strict religious belief might decide to allow their child to attend a public school or to be home schooled. It is an effort to instill the same values as the parent, but perhaps at the cost of the minimum threshold for certain capabilities of the child. The way that the capability threshold could be met is by restricting the choice of the citizens and making sure they understand the capabilities by educating all in the meaning of the capabilities and in how attention to these can help an individual’s life. This is not an unheard of occurrence in the United States. Take, for instance, the public education system. School funding is based on the attendance of students and a school’s success in meeting certain requirements determines if the school remains open. The choice that schools have is what they will mandate as being taught to students in their schools. This choice is limited and there is still the minimum requirement that students must meet standardized tests in order to be deemed a successful student.

There are plenty of choices in the United States, and the illiteracy rate is twenty-three percent of the population.¹¹⁵ In comparison the literacy rate of Cuba is one hundred percent for males and females ages fifteen to twenty-four.¹¹⁶ While there might be little freedom, or choice, in deciding which capabilities or lack of capabilities to obtain, there is a basic functioning that

¹¹³ Ibid., 73.

¹¹⁴ Ibid., 87.

¹¹⁵ “23% of America Illiterate” last modified February 13, 2013, <http://www.zerohedge.com/news/2013-02-13/23-america-illiterate>.

¹¹⁶ “UNICEF-Cuba-Statistics” http://www.unicef.org/infobycountry/cuba_statistics.html.

Cuba's citizens are meeting that those in the United States are not meeting. We might note further that everyone in Cuba has access to free basic healthcare; while over 15% in the USA have no health insurance. WHO rates the US 54th in fairness of access, and Cuba 23rd.¹¹⁷ I am not recommending replicating Cuba's government in the United States. The point is that choice to fulfill a capability or not and meeting a minimum threshold cannot coexist in every instance. An additional example of the failure of choice and minimum threshold are the facts about American high school dropouts: twenty-two percent of students are not graduating, earning \$260,000 less in their careers than those who do, and are eight more times likely to spend time in jail.¹¹⁸ In those cases in which individuals will truly be at a disadvantage if he or she does not choose to fulfill a capability, then the functioning over merely the bare capability must be enforced. Given that certain aspects of the capabilities can be compared, and should be, across cultures, there should be a certain assurance that a government's citizens are being provided with an education and other basic needs that help people achieve their goals. This is not to say merely that all *should* be treated equal, but that all *are* indeed treated equally.

Perhaps in all our choices, we are held back because we are not required to meet any sort of standard. The U.S. has high illiteracy and dropout rates, but no viable alternatives are provided to these individuals who opt out of education and learning. Opting out to nothing is not a real choice. One might argue that there are alternatives, but while there are some alternatives, there are no standards guiding those alternatives, nor are they clearly related to the capabilities. Thus, there are no real standards if you still allow for the choice of opting out of certain capabilities. There is no minimum threshold being set, if individuals are not attempting to achieve a particular capability. In the lack of establishing functioning over capability there

¹¹⁷ "World Health Organization Assesses the World's Health Systems" last modified June 21, 2000, http://www.who.int/whr/2000/media_centre/press_release/en/.

¹¹⁸ "Rate Not Graduating" last modified 2011, <http://boostup.org/en/facts/statistics#national>.

cannot be any sort of standard or minimum threshold, for which the government is responsible. If an individual can leave school without finishing, then there really is no minimum standard.

If there are cultures within a government's border that cannot allow for certain capabilities in their own lives given religious affiliations, then those individuals ought to be exempted if the deficit of particular capabilities are replaced by other enrichments. Consider the case of *Wisconsin v. Yoder*, members of the Old Order Amish religion only wanted their children to attend public or private school until fourteen years of age. In the later teen years the children would be trained in farming and domestic labor skills that would sustain their lives in the future.¹¹⁹ This training would provide the children with survival skills that could be utilized in their own culture, and perhaps even outside of it as well. In a way this is a version of multiple flourishings, with an important emphasis on developing functionings above formal guarantees of capabilities. The formal guarantee of capabilities does very little to enrich an individual's life if he or she never participates in developing those capabilities into functioning parts of the individual's life.

Nussbaum might support my change in the capabilities approach, that functioning must be the goal in some instances, when she states that it is the functionings that "render a life fully human."¹²⁰ In my version of her theory I would still make choice part, but not central, to the application of the approach. The way choice is implemented in this new function over capability approach involves having access to a limited variety of resources that citizens could be provided with in order to fulfill the functioning of their capacities. Within this range – which, as we noted with the example of Amish education, might be negotiated – then individuals have choices. So something like the capability *Senses, Imagination, and Thought* is part of being educated, while

¹¹⁹ Nussbaum, *Women*, 232-3.

¹²⁰ *Ibid.*, 87.

parents could opt-out of having their children learning concepts of the world that they would deem offensive. These parents would have to either write a letter arguing the case for why their children should not learn in the required way, or they themselves must be given the lesson which they exempt their children from. This makes parents truly responsible for their child's development. The sort of lessons I am talking about include such issues as how the world was created, how the world is, and sex-education. In the latter case, the minimum threshold provides a means for disease control as well as developing one's ability to be a responsible member of society.

A more extreme version of this implementation of limited choice might be to require the lessons learned in classes to be as mandatory as vaccinations. So, if a student was excluded from learning certain lessons that were believed necessary in order to function within the world, then the student would be deemed unfit and unwanted. This would mean that an individual would be so stunted in his or her knowledge of the world that the individual would be a liability to the student body, and eventually the society. The individual would be a liability because the lack of knowledge would be a hindrance in the long run, just as basic health skills and knowledge of the natural world helps an individual live a life according to the structure of a society. This is merely an example of how to make a minimum threshold a reality. There needs to be a sort of standard created in order to make sure that citizens, students in this case, can be provided with a basic functioning in the world they live in. And, this minimum threshold necessarily limits choices.

If some individuals live with a view truly different such that acceptance of basic capabilities would violate their beliefs, then there should be options for them. These options are more than what Nussbaum provides when claiming that the capabilities approach does not

require an acceptance of any particular metaphysical or secular belief.¹²¹ We might think of how the Amish live with but not within the culture of the United States as a model of how to account for capabilities in those cultures that choose to participate limitedly but also want to keep their traditions. The concept of tradition is seemingly excluded from the capabilities approach given the lack of concern for those who might live a life under a strict metaphysical, or even secular ethical, belief.

The implementation of functioning over mere capability might be dissatisfying to Nussbaum and others who value choice, but it is a valuing of individuals actual ability to become who they want to become. In order to operate a motor vehicle we require citizens to obtain a license. This is an assurance that an individual obtained training in how to operate a machine; the functioning I am advocating for is a sort of assurance that individual living in a particular culture can function at a basic level. Citizens can operate in the world around them. While not every driver drives the same, each has met a minimum understanding of driving in order to drive on the same road. The citizens should not be expected to act the same or have the same beliefs in a society, but they should be able to meet a minimum threshold of capabilities in order to function in the world; then eventually they will progress and develop choices as they wish. In Nussbaum's formulation of the capabilities approach I see choices coming from the capabilities, but I believe the choices should be coming from the individuals. They develop what it is they want their society to look like. The capabilities are merely the basic needs for individuals to have a human life, it is not the choice that makes the person. The person makes the choice.

Exploring John Rawls' discussion of the Aristotelian Principle might bolster the strength of Nussbaum's aim and give a method to enrich and make the capabilities approach a bit more convincing. The aim of his argument is to look at justice in society. He believes that in a just

¹²¹ Ibid., 79.

society citizens must be able to have a say in their government. Certain opportunities must also be available so that ideas are not merely ideas and can truly be *actualized*. People must be able to have the freedom to work towards the career and life they wish to pursue so that all are equal to participate in what they consider a just life. The Difference Principle works on this article. The principle is states that: “Social and economic inequalities are to be arranged so that they are both (a) reasonably expected to be to everyone’s advantage, and (b) attached to positions and offices open to all”.¹²² The principle aims to make it possible for all to have an equal opportunity to attain income and wealth and opportunities in a society, while not mandating some merely formal equality of resource distribution. Government programs will be able to facilitate people pursuing a career that utilizes their talents by the following: federal government taxing and redistributing of wealth, welfare programs, and altering the conditions of those who have lost the natural or social lottery and are worst off in a society. Fundamental liberties are supported and the opportunities available to the worst off are increased by the government that Rawls proposes.

Social unity is the assumption for Rawls’ theory of justice, where people are positively affected by self-realization. All individuals in a society have a common essential final end. They deliberate and then accept a way to attain a goal. Once the goal is realized, everyone who participated is pleased by the end result. This confirms a sense of community.¹²³ For instance, during the Civil Rights Movement of the sixties in the United States, each person who wished to express his/her desire for free and equal rights would work with others to achieve this goal by participating in activities like sit-ins or walkouts. Eventually, this would lead to a change in laws. All would then be free to express joy publicly in the unified commitment and achievement of those fighting against injustice. Rawls even names some human goods that would suffice in the

¹²² Rawls, *Theory of Justice*, 53.

¹²³ *Ibid.*, 461.

discussion of how an individual could be considered an absolute human: “...familiar values of personal affection and friendship, meaningful work and social cooperation, the pursuit of knowledge and the fashioning and contemplation of beautiful objects, are not only prominent in our rational plans but they can for the most part be advanced in a manner which justice permits”.¹²⁴

Rawls differs from Nussbaum in her belief that capabilities ought to be the concern, and not the realization. The “Aristotelian Principle runs as follows: other things [being] equal, human beings enjoy the exercise of their realized capacities (their innate or trained abilities), and this enjoyment increases the more the capacity is realized or the greater its complexity”.¹²⁵ The emphasis should be placed on the exercise of the “realized capacities”. This is separate from Nussbaum’s capability oriented theory that justifies that the goal ought to be the capability. As I have argued though, this is an error because you must go further in order to satisfy fully the accomplishment of attaining a particular capability. It is within functioning that persons can realize their capacities. You would have to see someone functioning not just having knowledge of a capability in order for individuals to model the capabilities for others. If you were never shown what living with the capabilities looks like, and only knew them in theory there would be a limited understanding. Individuals would not know how different their life would be if they were to choose to realize a capability. This is mimicked in the Amish tradition of Rumspringa—a period during adolescence for some Amish members, during which they temporarily leave their community to experience the secular world. By leaving the community they can understand the alternative to their current lifestyle, and see different capabilities realized.

The sense of joy and of different emotions is a capability in itself, according to

¹²⁴ Ibid., 373.

¹²⁵ Ibid., 374.

Nussbaum, but in order to truly know what this capability is when actualized, you have to exercise it. The “complexity” is a concern because it is a sort of basis for the motivation aspect of the principle; since we have pleasures in the building of our development as a human, there is a sort of “psychological law” that develops our desires.¹²⁶ This desire-changing element goes into our exercising of higher capacity and complex desires. For example, the emotions and senses exercised in a game like chess, is considered more sophisticated than those exercised in checkers. We see other individuals participating in abilities of higher complexity and seek to participate in the same activity.¹²⁷ Nussbaum wishes to show how the human beings have a natural inclination of compassion toward persons who might be suffering. However, the Aristotelian Principle, it improves the approach by going beyond compassion to fulfillment. Objectors might still say that her theory implies some sort of imperialistic view over others who might be non-western and deeply religious. However, the theory is made more compelling if there is value placed on the inherent desire to build on character, which as Aristotle notes is to some extent relative to time and place and person. As children individuals, have a sense that there is a potential to become something more than a child and evolve into an adult. Education in developing the capabilities trains the individual on how to exercise those capabilities and builds upon them like weight training for the person’s self-realization.

The ability factor is emphasized by Rawls; the lack of ability implies that the individual cannot learn about higher desires, according to the Aristotelian Principle. However, to reiterate, it might be the case that certain capabilities would have the practice of the ability built into the actual capability. For instance, the capability of *Practical Reason* cannot be fulfilled without actually putting into practice some sort of critical thought. Nussbaum states that *Practical*

¹²⁶ Ibid., 375.

¹²⁷ Ibid., 376.

Reason is: “Being able to form a conception of the good and to engage in critical reflection about the planning of one’s life”.¹²⁸ *Practical Reason* is not merely the capacity but the actual realization of that ability; one cannot have *Practical Reason* without engaging in reason practically. She places great value on this particular capability, stating that it is a constraint of the other capabilities, along with the capability of *Affiliation*, because they manage and permeate throughout the rest of the capabilities.¹²⁹ If this is such an important capability, you cannot assume that individuals know how to use it. If some people are given opportunities for a basic capability and are unable to actualize it, it seems plausible that *Practical Reason* will not be able to be fully realized beyond merely a capability. By showing how an individual can fully realize a capability, but including in her view the importance of exemplars, Nussbaum can provide a means to fully understand the choice of actualizing a capability through which individuals achieve self-realization.

In conclusion, surely the capabilities approach is not solely about seeking the actualization of the capability, but broadening discussion and opening the senses, so that people can develop capabilities but do not have to grow within the same standards of Western Culture. She supports diversity but wants to stray from the injustices that certain cultures have established in their public institutions. Her argument for *multiple realizability* goes a long way in making a universal normative theory accessible to each and every individual. An understanding of human dignity plays a strong role in her theory that makes and enriches the concept of an individual’s respect for another human being. Every individual ought to have the ability to actualize every capability, she claims, but she fails to establish an effective means to gain access to an understanding of a capability in the actual application of the theory. An additional dimension

¹²⁸ Nussbaum, *Women*, 79.

¹²⁹ *Ibid.*, 82.

ought to be considered, the Aristotelian Principle, which builds upon her respect for the awe-inspiring nature of the human and develops a sense of unity in her theory. Without such an element, her theory fails to build a full human flourishing—the eventual goal after the threshold is achieved—due to lack of understanding of an actualized capability.

The presented arguments and claims are meant to work with, not against the capabilities approach. The vision that Martha Nussbaum has for its utilization is somewhat utopian, in that groups of people in one culture will decide together how to build up the lives they want together. However, its goals and the discourse it requires is an effort that would make progressive moves to understand one another and leave the world in a better condition than it was before. The reason for this is that at the very least listening to one another brings us to build a community that chooses to have discourse over discord. It is an attempt at making our lives better right now, because perhaps before our very eyes we see the world change and this inspires us to change with it for the better. While the capabilities approach seems to focus on the political structure and groups in a culture, the individual is the true benefactor. The capabilities approach provides opportunities for individuals to share their beliefs in what should be a part of society and to choose to live in a society or not.

The emphasis and modifications I make to the capabilities approach are significant in order to provide a means to achieve the goals of the theory—that is, seeing the individual develop and understand those capabilities that are needed to truly be a human. These certain capabilities might be needed over any eventual choices that would be afforded to any citizen, as seen in the case of the United States' illiteracy and dropout rates. The end goal of the capabilities approach ought to acknowledge that some capabilities need to be realized, and that seeing others achieve these capabilities serves to model for individuals of how one's life can improve. The

Aristotelian Principle is one of the necessary elements for making the capabilities approach model the life of realizing one's capabilities, including the motivation to change oneself. However, to choose to accept and actualize the capabilities might not come exclusively from within. Another person could not only provide an example of realizing the capabilities, but also provide a roadmap for how an individual might maximize the potential benefit of utilizing a capability with skill and creativity. The image I have in mind is one in which individuals are not stunted because they do not understand basic concepts, or basic freedoms, but instead can engage and interact with the world around them. This process is more likely to result in a positive identity, one in which personal goals and achievement build more than just self-esteem, but also influences others through the achievement of these goals.

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