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## Disabilities and Capabilities: A Challenge to Martha Nussbaum's Central Capabilities

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### **Cover Page Footnote**

Thank you to Dr. Peter Dlugos and Dr. Kevin Olbrys for your help throughout this process.

# Disabilities and Capabilities: A Challenge to Martha Nussbaum's Central Capabilities

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## **Abstract**

Philosopher Martha Nussbaum, in her book *Creating Capabilities: The Human Development Approach* (2011), asserts that all humans should be granted ten fundamental entitlements, which are the components necessary for a person to have a flourishing and satisfying life. Although her requirements are fairly broad in scope, her entitlements—such as the ability to experience emotions and to have a normal lifespan—raise some questions regarding whether they apply to all people. More specifically, how do these capabilities relate to people with disabilities? In the chapter, “Capabilities and Contemporary Issues,” Nussbaum proclaims that the “problem of disability is vast” (*Creating Capabilities* 151). Why is disability a “problem?” In fact, the term disability contradicts the concept of capabilities. Nussbaum never answers the questions raised by her juxtaposition of capabilities and disabilities. Philosopher and disability-rights advocate Jean Vanier, author of *Becoming Human* (1998), helps us answer this question. Vanier focuses on the plight of the disabled, people who historically have been denied the stamp of humanity. He realizes that the only way to figure out what it means to be human is to explore and understand the disabled. In establishing L’Arche, a global social justice initiative providing homes for the intellectually disabled, he attempts to answer Nussbaum’s questions by providing mechanisms for the disabled to achieve their capabilities (Nussbaum, *Creating Capabilities* 151). Through examining L’Arche and Vanier’s philosophy, Nussbaum’s contradiction between disability and capability can be resolved.

*Keywords:* Philosophy, Nussbaum, Disability, Capabilities Approach

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## **Introduction**

In this paper, I engage with the capabilities approach—a liberal, philosophical approach formed by Amartya Sen and Martha Nussbaum. While Sen is important for forming the capabilities theory, I will be focusing on Nussbaum in my paper. In addition, I critique the capabilities approach and Nussbaum's definition of human dignity from the perspective of disability. The capabilities approach is a new way to measure global justice. Global justice refers to the quality of life in a nation. Nussbaum and Sen formed this approach in opposition to more popular theories of justice, such as the Gross Domestic Product (GDP) and Utilitarian approaches (Nussbaum, *Creating Capabilities* 47-50). The GDP approach measures nations' well-being based upon wealth and economic stability (Nussbaum, *Creating Capabilities* 47). In comparison, Utilitarianism, as defined by Jeremy Bentham, determines nations' successes based upon average happiness or satisfaction of their citizens (Nussbaum, *Creating Capabilities* 50-51). Nussbaum finds both of these approaches problematic because they deal with the aggregate, or average, amount of economic wealth or happiness in a nation (*Creating Capabilities* 49-51). The capabilities approach does not deal with averages; rather, it focuses on individuals and the capabilities that an individual would need to have in order to live a life of human dignity. In my paper, I argue that while the capabilities approach is more liberal than the GDP and the Utilitarian approaches, Nussbaum has to make changes to the definitions of her capabilities to include people with a variety of disabilities in order to create a more complete framework of global justice.

## **What is the Capabilities Approach?**

Nussbaum introduces the capabilities approach in an accessible way to the general reader. In this paper, I utilize two of her works to support my argument—*Frontiers of Justice: Disability, Nationality, and Species Membership*, published in 2006, which applies the capabilities approach to people with disabilities, people from different nationalities, and other species, and *Creating Capabilities: The Human Development Approach*, published in 2011, which is an overview of the capabilities approach. The capabilities theory addresses the question, “what is this person able to do and to be?” (Nussbaum, *Creating Capabilities* 20). In a broad sense, a capability is “the opportunity to select” an action (Nussbaum, *Creating Capabilities* 25). In other words, it relates to the individual’s ability to choose. The capability, or action, could have a positive or negative effect. Nussbaum explains that there are two parts of the capability theory: internal capabilities and combined capabilities (*Creating Capabilities* 21). Internal capabilities are “trained or developed traits and abilities, developed, in most cases, in interaction with the social, economic, familial, and political environment” (Nussbaum, *Creating Capabilities* 21). An example of this is being educated in order to learn how to participate in politics (Nussbaum, *Creating Capabilities* 21-22). A person develops numerous abilities, such as the ability to read and calculate mathematical functions, through the help of a school, which could be thought of as a social or political institution. In comparison, combined capabilities are “the freedoms or opportunities created by a combination of personal abilities and the political, social and economic environment” (Nussbaum, *Creating Capabilities* 20). One can see that internal capabilities are a part of the combined capabilities. The distinction between the two is that while internal capabilities are developed by an individual with the help of outside institutions, combined capabilities are government actions which allow an individual to utilize their internal

capabilities in progressive ways. An example of this would be if a government not only creates active citizens through educating them in the political system, but also allows its citizens to have voting rights (Nussbaum, *Creating Capabilities* 22).

Nussbaum lists ten capabilities that she believes individuals and governments should promote in order to create a just society (*Creating Capabilities* 33). These include having access to life; bodily health; bodily integrity; senses, imagination, and thought; emotions; practical reason; affiliation; other species; play; and control over one's environment (Nussbaum, *Frontiers of Justice* 76-78). Out of an undefined number of potential capabilities, Nussbaum states that these ten capabilities are what make a life worthy of human dignity (*Creating Capabilities* 31). These capabilities were chosen because they promote "fertile functioning" and are not "corrosive disadvantages," terms formed by philosophers Jonathan Wolff and Avner De-Shalit (Nussbaum, *Creating Capabilities* 44). Fertile functioning is when a capability "tends to promote other related capabilities" (Nussbaum, *Creating Capabilities* 44). In other words, the capabilities are intertwined; one capability leads to the attainment of others. Nussbaum gives the example of education as being a fertile functioning (*Creating Capabilities* 44). Education allows an individual to learn practical reason and to enhance their senses, imagination and thought processes. This in turn leads these individuals to have greater control over their lives. The opposite of a fertile functioning is a corrosive disadvantage. A corrosive disadvantage is "a deprivation that has particularly large effects in other areas of life" (Nussbaum, *Creating Capabilities* 44). These capabilities, such as the capacity to sexually assault someone (which could be thought of as a violation of bodily integrity), lead to the diminishment of others (such as losing control over one's environment).

## The Question of Human Dignity

Nussbaum seems to be saying that her ten capabilities are fertile and enable human dignity. This raises the question: what is human dignity? Philosophers have debated for centuries about its precise definition. Historically, dignity seems to be intertwined with respect and rationality. Some philosophers state that the idea of dignity can be traced back to Immanuel Kant (Dillon). Kant intricately intertwines rationality and morality. He writes in *Groundwork for the Metaphysics of Morals*, “it is clear that all moral concepts have their seat and origin in reason completely a priori, and this is just as true of the most ordinary human intellect as of the most highly theoretical” (Cahn 326). Only a being that is rational, meaning someone who can think about and comprehend ideas, can understand the theoretical components of morality. Morality refers to the ability of a being to establish a moral compass and a good will (Cahn 318). A good will is “like a jewel...as something that has its full worth in itself” (Cahn 318). The good will is something that is good in and of itself and can be applied to other qualities to make them good (Cahn 318). Kant formed this definition in order to distinguish humanity from other species. Other species do not have the capacity or the brain structure to understand morality and what is good or evil. Kant believes that because people have the capacity to understand morality, they can obtain respect and dignity (Dillon). In other words, if the good will is like a “jewel” and people act upon the good will, then they are good just by being themselves. The respect that one would give a jewel is equal to the respect that we all should give to our fellow humans.

Nussbaum created the capabilities approach in order to provide a wider understanding of dignity. When examining Kant’s definition above, a question arises. Is it true that all people can participate in moral reasoning? It seems that the definition states that if a person does not have the capacity for complex reasoning, that person does not have access to dignity. Nussbaum

points out that Kant's definition excludes individuals with disabilities and she believes that a new definition of dignity needs to be formed in order to include these individuals. She does not want to limit the definition to just "rational" persons; rather, she wants her readers to judge a human's morality and dignity based upon a different concept than rationality (Nussbaum, *Frontiers of Justice* 133). Nussbaum asserts that every person has inherent dignity, meaning that just by existing they are worthy of respect; however, "some living conditions deliver to people a life that is worthy of the human dignity that they possess, and others do not" (*Creating Capabilities* 30). Nussbaum wants to clarify that nations still have a responsibility towards their citizens. Just because everyone has inherent dignity does not mean that their quality of life is in accordance with human dignity. Every nation has to provide resources for their citizens to achieve the ten central capabilities in order for human dignity to be realized. One of the most important concepts regarding the capabilities approach is that it provides dignity to every individual, no matter their race, nationality, sexuality, gender, or disability. Nussbaum specifically focuses on the plight of people with disabilities, which is unusual because they have often been excluded from philosophical theories of justice (*Frontiers of Justice* 98). This means that in order for people with disabilities to live a dignified life, nations need to provide laws that support the rights of disabled individuals, like the Individuals with Disabilities Education Act (IDEA) which provides children with disabilities the right to an individualized education program by the public schools in the United States (Nussbaum, *Frontiers of Justice* 205). Despite her admirable desire to provide a different approach to Kantianism, she has designed her list in a way that focuses on rationality, which excludes some people with disabilities.

### **Problematic Capabilities**



When examining the ten central capabilities, one can see that some capabilities lack specificity. The first capability on the list is life. Nussbaum defines life as “being able to live to the end of a human life of normal length; not dying prematurely, or before one’s life is so reduced as to be not worth living” (*Creating Capabilities* 33). One of the problems that her definition raises is her use of “normal.” What nation’s life expectancy is this “normal” based on? Who is included in calculating a “normal” life expectancy? The use of the word “normal” implies the use of averages in calculating an appropriate length of a human life, which means that she’s applying a part of the Utilitarian theory that she wants to refute. From the perspective of disability advocates, “normal” is a problematic adjective that is often used to distinguish those with disabilities from those without.

Another problematic capability is Nussbaum’s notion of practical reason. She defines it as a person “being able to form a conception of the good and engage in critical reflection about the planning of one’s life” (Nussbaum, *Creating Capabilities* 34). While it is true that Nussbaum has based aspects of her approach on the works of philosopher John Rawls, author of *A Theory of Justice*, she criticizes his use of rationality in his conception of the good. She highlights that Rawls’s moral conception revolves around the subjects being “fully cooperating” and that his theory leaves “no place for the unusual social arrangements that will need to be made in order to include as fully as possible people with physical and mental impairments” (Nussbaum, *Frontiers of Justice* 109). One could argue that her definition of practical reason is not that different from Rawls’s. In order to engage in critical reflection, one must have some type of rationality. While it is true that Nussbaum’s conception of rationality is broader than that of Rawls or Kant, the term “practical reason” brings up questions with regards to what she explicitly means by this capability. She does make her definitions of the capabilities non-specific because she wants to

leave room for interpretation by different governments and also supplies it as a “goal” that all humanity should try to achieve. However, I argue that she should make this definition more explicit in order to distinguish practical reason from the moral theories of Kant or Rawls.

Through this, she might be able to achieve a theory of justice that includes people with a diverse range of disabilities.

### **Disability and Capabilities**

This critique of Nussbaum might seem invalid, since she wrote a book called *Frontiers of Justice* that addresses the compatibility of the capabilities approach with disability. She is trying to create a philosophical approach that includes this group of people, not shunt them off to the side. While it is true that she uses examples of children with Down syndrome, cerebral palsy, and Asperger’s syndrome to support her argument, she excludes two disabilities when applying the capabilities approach. The concept of equal human dignity excludes “those in a permanent vegetative state and those who are anencephalic” because they are “without agency of any kind” (Nussbaum, *Creating Capabilities* 31). Anencephaly is a deformity where a child is born without a part of his or her brain or skull, often resulting in death a couple of hours after birth (“Facts about Anencephaly”). A person in a permanent vegetative state has basic functioning of the body, such as being able to breathe on their own and blink; however, they are unable to perform any cognitive functions or experience emotions (“Vegetative State”). Remember, dignity is defined in an intricate way with the capabilities. In order to live a life worthy of human dignity, one must meet the minimum threshold of the ten capabilities (Nussbaum, *Frontiers of Justice* 162). Since people who are in a permanent vegetative state or who have anencephaly do not have the capacity to obtain the minimum threshold for any capabilities, these individuals are excluded from being able to have dignity. If Nussbaum is forming a theory of justice that is based off of

every individual, shouldn't she include people who are in a vegetative state or who are anencephalic?

One could argue that these individuals are not human, since they do not have the ability to participate in human society in any way. However, Nussbaum seems to contradict her thesis if she takes this perspective. Nussbaum is proclaiming that all humans have access to basic dignity. If one were to assume that her definition of human dignity was based on the fact that a child was born to human parents, therefore, that child automatically has access to dignity, even if s/he was anencephalic or in a permanent vegetative state. Cynthia Lewiecki-Wilson, an English professor at Miami University, also finds the exclusion of people who are anencephalic or in a permanent vegetative state to be highly problematic. Lewiecki-Wilson objects:

Despite the fact that elsewhere Nussbaum declares that anyone born to a human is a human, here she seems to set up a boundary line, implying that human species membership is related to some potential capacity. She is saying that such people are "not fully human," not that making judgements about their cases is difficult or painful. (89)

Her criticism of Nussbaum is similar to mine. To put it in philosophical terminology, she is accusing Nussbaum of making a logical contradiction. In a basic logic class, one is taught that if there is a contradiction in an argument, that means that the argument is invalid. Since we have spotted a contradiction, Nussbaum's argument is weakened.

Does this mean we should reject the capabilities theory? No. It does mean that we either have to revise the list of capabilities or provide a thorough theory for what constitutes a human being. Either way, in order to include people who are anencephalic or in a permanent vegetative state, we need to go back to Nussbaum's original question: what does it mean to be human?

### **Jean Vanier, L'Arche, and the Capabilities Approach**

Philosopher and religious scholar, Jean Vanier, wrote an entire book about this question. In *Becoming Human*, originally published in 1998, Vanier discusses L'Arche, the home he created for developmentally disabled adults and how through examining individuals who are often left on the outskirts of society, he learned about humanity. His first community was formed in 1964 in France and over the course of forty years, his organization expanded to 134 communities in 35 nations (Vanier 2). L'Arche was unique because it gave respect to people with disabilities, and allowed them to flourish instead of being scorned by society (Vanier 1-2). When thinking about the potential practical applications of the capabilities approach, L'Arche provides an example. It is important to recognize that L'Arche was formed in 1964, while the capabilities approach is a 21<sup>st</sup> century theory. Thus, L'Arche was not formed based upon the capabilities approach.

However, it could be an example of the potential practicality of this approach. Vanier discusses an autistic young woman named Claudia, who, prior to joining the L'Arche community, lived in a slum in Honduras (20). When she entered L'Arche, she was disoriented, frightened, and in immense pain (Vanier 21). However, through years of being involved with the community, the staff at L'Arche was able to teach Claudia that she was “responsible for her own body, for her own life, that she had authority over her actions, and that she could make choices” (Vanier 27). This sentence echoes some of Nussbaum's capabilities. The foundation of the capabilities approach is choice. Since Vanier is emphasizing an individual's capacity for choice, L'Arche could be thought of as an organization that promotes the ten capabilities.

However, Claudia is not in a permanent vegetative state nor does she have anencephaly. As an autistic individual, Nussbaum would say that Claudia has the ability to maintain the minimum thresholds of the capabilities and can live a dignified life. Thus, it does not seem that Claudia's case is contradicting Nussbaum's approach because she has the mental capacity for

choice. In comparison, Vanier gives the example of Antonio, who “could not walk, speak, or use his hands; he needed extra oxygen to breathe” (91). One could argue that Antonio is in a permanent vegetative state. He is unable to perform cognitive functions and needs assistance with the basic necessities of life. Nussbaum would probably argue that Antonio’s life prohibits human dignity and that he “would not be qualified for equal political entitlements under this theory” (*Creating Capabilities* 24). In contrast, I argue that Antonio deserves basic political entitlements. Vanier asserts that Antonio positively impacts the world around him by living in and through “a love of trust” (91). Antonio is able to influence and be influenced by others despite the fact that he does not have the mental capacity to obtain any of the capabilities on Nussbaum’s list. Because Antonio has this ability, I would argue that his life is worthy of human dignity.

Despite the fact that Vanier has changed the lives of many disabled individuals, we have to address the fact that he did not live his life in accordance with his own standards of human dignity (Wagtendonk). I argue that Vanier’s standard of human dignity is in accordance with Nussbaum’s ten central capabilities as shown by how he enhances Claudia’s and Antonio’s standard of living in L’Arche. In February 2020, six women, who did not have disabilities, came forward with credible allegations against Vanier of sexual assault (Wagtendonk). This raises a moral quandary for philosophers, especially with regards to thinking about Vanier as the epitome of a philosopher embracing in theory and practice the ten capabilities. If Vanier sexually assaulted six women, as alleged, he deprived them of bodily integrity. Bodily integrity is defined by Nussbaum as “being able to move freely from place to place; to be secure against violent assault, including sexual assault and domestic violence; having opportunities for sexual satisfaction and for choice in matters of reproduction” (*Creating Capabilities* 33). Can we

separate the work L'Arche is doing in promoting the capabilities of disabled individuals from the allegations of the six women who accused Vanier of sexual assault, which is an example of a corrosive disadvantage? This kind of question has troubled the philosophical community for millennia. Can we separate the positive impact that an artist, a politician, or a religious leader has on the world community from the disadvantages or active harm that the person caused an individual or a group of people?

While some philosophers say, yes, one can separate the flawed actors from their great work, I argue that in the context of the capabilities approach, one cannot. This is because the capabilities approach focuses on the dignity of every individual and does not measure well-being based upon the average happiness of a group. This means that if an actor is depriving another human of any of the capabilities, s/he is therefore depriving that person of dignity, which means that the actor is committing an immoral action. Philosophers cannot separate a good work from a moral quandary if we are discussing the ten capabilities. L'Arche released a statement, saying “For many of us, Jean was one of the people we loved and respected the most... While the considerable good he did throughout his life is not in question, we will nevertheless have to mourn a certain image we may have had of Jean and of the origins of L'Arche” (“Catholic Charity Founder Sexually Abused Women, Says Report”). However, even if the actor is criticized or condemned, the actions are endorsed. The response seems typical of what many philosophers have said in the past, where one separates the work from the actor. Nevertheless, the statement does mention mourning the image of L'Arche and what could be argued was one of the first organizations that truly personified the ten capabilities. This might mean that there is no organization in the world in which truly every worker and person possesses the ten capabilities. This might be due to human corruption by money, social structures, or other

influences. It shows that bringing the ten capabilities from a theoretical standpoint to actuality is more complex than originally believed by Nussbaum. Does this mean that Nussbaum's and Sen's theory is inherently impractical? Do theories even have to be practical? Maybe this sense of doubt has something to do with needing to revise the theory to include people who are anencephalic or in a permanent vegetative state. If one could revise the theory to include those populations, maybe then Nussbaum's and Sen's theory could be implemented. These are questions that exceed the scope of this paper, but should continue to be pondered by philosophers and disability rights advocates.

### **Conclusion**

The capabilities approach assumes human dignity requires the ten capabilities. It is contradictory for Nussbaum to state that people who are anencephalic or who are in a permanent vegetative state are not worthy of human dignity. She does not go into detail about this problem in either of her texts. In order to strengthen the capabilities approach, one must address this issue. While I have to conduct further research in order to suggest an answer to this question, it is important for readers to be aware of this criticism while reading Nussbaum. One might be able to examine social justice projects, like L'Arche, in order to see how revisions to the approach could be made. Philosophers could look at institutions and individuals putting social justice ideals into every-day practice and see how their successes improve philosophical theory. While the application of the capabilities approach to non-profit organizations, businesses, and governments will always be difficult; with a more consistent, less contradictory theory, philosophers might be able to diminish the gap between theory and practice.

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