
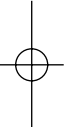


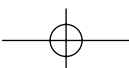


# Introduction

*ADAM CURETON AND KIMBERLEY BROWNLEE*



Disability and disadvantage are interrelated topics that raise important and sometimes overlooked issues in moral and political philosophy. Many of these issues strike at the core of traditional problems about what it takes to lead a good life, how we should treat others, and how society should be organized. Attending to the concerns raised by disability and disadvantage prompts a re-evaluation of core normative questions and identifies new problems for philosophical reflection. First, for example, focusing on the conditions required to provide justice for persons with disabilities can influence how we address longstanding problems about justly distributing the benefits and burdens of society. Second, understanding the particular circumstances and capacities of persons with specific disabilities can foster nuanced conceptions of the person within moral and political theory. Third, in the context of allocating healthcare resources, considering issues of disability may shed new light on well-known problems about medical need, comparative fairness, and desert by, for example, helping to highlight cases in which healthcare policies improperly discriminate against people with disabilities. Fourth, issues of impairment, disability, and disadvantage raise questions about what parents owe to their children, what virtues a parent should wish to possess, and what kinds of considerations ought to figure in reproductive choices. Finally, appreciating that impairment, disability, and related disadvantages are real possibilities for most of us at some stage in our lives can make us sensitive to our own vulnerabilities and dependencies on others. This in turn can trigger further reflection on the profound impact that social institutions have on the shape and quality of our lives, the damaging effects of



social stigmatization, the potentially harmful messages conveyed by certain policies and actions, and the weight we tend to place on solidarity, group history, and common culture.

These are just a few ways in which examining the experience of disability and disadvantage can provide valuable, and sometimes surprising, insights into a variety of problems in moral and political philosophy. In recent years, issues of disability and disadvantage have begun to garner more attention from philosophers, perhaps due to an emerging appreciation that thinking about these topics can make important aspects of our lives more salient to us. Philosophers have also come to appreciate the strength of certain intuitions about how people with disabilities should be treated. Although our judgements about people with disabilities usually need to be interpreted and qualified, they tend to be ones with which a plausible moral theory or political theory must come to terms.

It is against this backdrop that we present this collection of original essays, the main aim of which is to expand the reach of philosophical reflection on disability while furthering the work of those who first began to see the primacy of these issues for moral and political philosophy. We caught a glimpse of the importance of issues of disability in moral and political philosophy ourselves when, studying together at Oxford, we sought to reconcile our own experiences as people with the same rare visual impairment with the way that traditional normative debates are usually conceived. We hope that the essays collected here encourage more philosophers to write and reflect about disability and related topics, as the contributions in this volume highlight exciting research areas in need of further investigation.

This collection brings together a number of thinkers who specialize in philosophical problems of disability as well as those who may be best known for their work in other areas of philosophy. Some of our contributors are younger philosophers while others are more established in their fields. We admire and respect all of these scholars and count it as a great privilege to have worked with them on this project. We were particularly fortunate to come to know most of them during a Pacific APA session and two conferences, at which nearly all of the essays in this collection were presented in one form or another. There are many other philosophers whose work has influenced all of us when it comes to thinking about disability and disadvantage. Suggestions for further reading on disability by

these and other scholars can be found in the notes and references for the chapters.

Although many of the chapters address several distinct issues, they can be grouped roughly around their attention to certain core themes. Broadly in the order in which they are addressed, those themes include: (1) an analysis of the notions of *disability*, *disadvantage*, and *impairment* in ways that move beyond the so-called social and medical conceptions or ‘models’ of disability;<sup>1</sup> (2) reflections upon overlapping issues of social justice, distributive justice, and equality of wellbeing; (3) the conditions for full autonomy and inviolability; (4) notions of familial virtue; and (5) the normative terrain of reproductive decision-making. These themes play out in complex ways that can only be gestured at in the following brief chapter summaries.

In their chapter, Guy Kahane and Julian Savulescu offer an original conception of disability according to which, a disability is a stable personal trait that tends to diminish a person’s wellbeing relative to some given context. Kahane and Savulescu take as their starting point the view that neither the social model nor the medical model of disability is adequate to resolve the range of moral and political problems for which a satisfactory theory of disability is required. The medical model is inadequate, they argue, since there is no reason to think that a trait is bad or in need of correction merely because it deviates from typical human functioning. The social model is faulty, on their view, because, even were we to remove all illegitimate social prejudice, there would remain a variety of disabling traits that we would have good reason to correct. Kahane and Savulescu propose instead a conception of disability closely tied to wellbeing. On their view, disabilities are traits that tend to decrease a person’s wellbeing relative to certain circumstances. Three advantages that Kahane and Savulescu claim for their view are the following. First, it takes having a disability to be context-dependent—a trait that is generally disabling might not be disabling for a particular person if her wellbeing is not reduced as a result of having that trait. Second, their view is more inclusive than most in that

<sup>1</sup> In broad terms, the medical model regards a disability as a stable personal property that deviates from normal human functioning and, thus, a trait that we have reason to correct. The social model, by contrast, regards a disability as a stable personal trait that deviates from typical human functioning and tends to make a person’s life go worse because of the social prejudices that exist against people with that trait.

it implies that we all have disabilities of various sorts. Third, it offers an appealing explanation for why there is strong reason to correct disabling traits, namely, that having them by definition makes our lives go worse. Although this conception of disability may seem overly broad, Richard Hull argues in his chapter that adopting a more inclusive conception of the disabling traits that most of us experience at some point in our lives may cultivate greater willingness to adjust social structures to reduce the cumulative disadvantages of functional loss and limitation.

Normal Daniels, Susannah Rose, and Ellen Daniels Zide take a different approach to understanding the concept of disability. They tease out a conception of disability from some empirical work on how persons who become impaired as adults respond to their new condition. Daniels et al. maintain that this evidence casts doubt on the widely accepted ‘standard story’ that people who experience a long-term impairment report that their lives are going better than do non-impaired people who merely imagine themselves having that impairment. (The basic idea in the standard story is that deaf people, for example, tend to regard their lives as going quite well while non-deaf people who imagine themselves becoming deaf think that their lives would not be going well.) According to Daniels et al. one problem with this view is that there is significant variation in how well people with certain types of impairments think their lives are going. People with severe depression and traumatic brain injuries, in particular, are much more likely to rate their lives as going worse than do people who merely imagine themselves with those conditions. In addition, the standard story risks giving the misleading impression that people are generally able to adapt successfully to most all types of physical and mental impairments, which may in turn suggest that disability is wholly accounted for by societal prejudice rather than by the impairments themselves. Given these reasons to doubt the standard story, Daniels et al. propose instead that we conceptualize disability as an impairment that leads someone to have fewer abilities than people without that impairment. To use their example, a paraplegic person with all sorts of assistive devices and community support may well have many of the same abilities as people without that impairment and so not be disabled in some respects. This account, they claim, not only makes sense of the empirical evidence of how people with disabilities evaluate the quality of their own lives, but it also rightly stresses that loss of functioning can result from both social and medical factors.

Lorella Terzi and Jonathan Wolff also consider conceptual questions in their chapters, but their main focus is on examining what is needed to secure equal social justice for all. In her chapter, Terzi draws upon some basic elements of the capability approach to distributive justice and suggests ways that this framework might address the needs of people with disabilities. The basic idea behind this framework is that everyone should be provided with whatever resources are needed to give them an equal opportunity to achieve certain valuable states (e.g. being well-nourished or healthy) and to perform certain valuable activities (e.g. running for public office or raising children). These beings and doings, or ‘functionings’ as Amartya Sen calls them, are regarded by proponents of this view as constitutive of individual wellbeing and so are taken to admit of the sort of interpersonal comparisons of wellbeing that distributive justice is sometimes thought to require. Terzi argues that this theory provides important insights into how we should think about distributive justice for the disabled. For one thing, it offers an intuitively compelling conception of disability that can explain why having a disability entitles one to just compensation. A person has a disability, on this view, when she has personal characteristics that make her unable to achieve certain valuable functionings at the same level that average people are able to achieve them in similar circumstances. And this approach encourages disabled people to be involved in the public deliberative process that Terzi believes should be used to determine which functionings matter from the standpoint of justice. Terzi stresses that this feature of the capability view she defends helps to respond to some of the worries about the capability approach that Jonathan Wolff raises in his chapter.

Wolff explores how issues of disability should be approached in a society consisting of equal moral persons. Wolff argues that bringing about a society of this sort requires us to remedy the effects that certain factors have on a person’s life prospects. In particular, we must work to mitigate the way in which one’s natural and social endowments, along with the basic structures of society, affect one’s opportunities in life. Being disabled, Wolff suggests, can be understood as a state in which a person’s natural endowments are impaired in such a way that she does not have genuine opportunities for secure (non-risky) functioning when considered against the background of the basic institutions and her place in the social lottery. This account lies within the capabilities approach to disability, but Wolff offers a few criticisms of the traditional versions of that view, including the

one advocated by Lorella Terzi. Wolff prefers to talk about capabilities in terms of genuine opportunities for secure functioning, which are basically steps that it is reasonable to expect a person to take to achieve functionings that are not vulnerable to exceptional risk. Remedying a disability, on Wolff's account, can occur either by relieving a person's impairment or by affording him material resources. Wolff argues, however, that in most cases of disability we have more reason to change the basic structures of society in order to promote the equal recognition and acceptance of all persons.

The theme of social justice is carried forward by Christie Hartley, who sketches out in her chapter a contractualist account of justice that aims to explain and justify what society owes people with significant cognitive disabilities. As Hartley sees it, one of the main obstacles to constructing such an account is that contractualist positions usually regard society as essentially a fair system of cooperation where membership depends upon one's ability to participate in cooperative arrangements with others. The problem, as far as disabled people are concerned, is that people with cognitive disabilities may not be full members of society since they are unable to make the right sort of cooperative contribution to society. Hartley takes issue with this suggestion by offering a new way to understand fair cooperation as focused on establishing or maintaining worthwhile relationships rather than merely coordinating our efforts to produce some good. When fair cooperation is understood in this way, Hartley argues, a great many people with cognitive disabilities clearly participate in a variety of valuable cooperative arrangements, which in turn vouchsafes their status as full-fledged members of society who are owed equal justice. In particular, Hartley argues that people with cognitive disabilities can take part in relationships of engagement, which she describes as those in which two people recognize each other as responsive beings with whom communication is possible. According to Hartley, these relationships are valuable in themselves and often provide the basis for deeper relationships of respect, companionship, and friendship.

Like Hartley's chapter, Anita Silvers's chapter focuses upon people traditionally not included in accounts of social justice. Her essay is a continuation of her efforts to develop an account that gives due consideration to people not thought to fit the models of the person presupposed by dominant moral and political theories. These 'outliers', as she calls them, are people with

characteristics that make them significantly different from the ‘normal’ or ‘typical’ person upon whom, as Silvers sees it, moral and political theories tend to focus. Rather than thinking of problems associated with ‘atypical’ people as issues to be worked out later, Silvers argues that we should recast issues of justice in a way that appreciates and embraces the many ways that people differ from each other. Her proposal is to think of justice as a matter of engendering trust amongst people with diverse characteristics, and thereby to emphasize that justice is a matter of promoting equal opportunity and human flourishing. Silvers argues that the main advantage of thinking of justice in this way, rather than along the model of a social contract, is that it allows us to adopt and combine three worthwhile strategies for dealing with problems of justice that arise from differences among persons; in particular, she suggests that some differences should be ignored, some mitigated, and some embraced from the point of view of justice.

Hartley and Daniels et al. give particular attention to severe cognitive impairment as a topic that raises distinct normative and conceptual issues. This focus on cognitive-related disabilities continues in the chapters by Jeff McMahan, Douglas MacLean, and Leslie Francis. Through an investigation of inter-related notions of autonomy, Francis argues that we should exercise due care when judging whether a person with an intellectual disability possesses or lacks autonomy. Francis shows that there is a variety of conceptions of autonomy and that at least some of them are matters of degree. According to Francis, context not only helps to determine which of the notions of autonomy is most relevant to a problem, but it can help to specify a threshold that a person must meet for certain judgements or actions to be autonomous. Francis argues that, when we distinguish correctly the various complex conceptions of autonomy, we see that many people with cognitive disabilities possess, to some degree, a variety of morally significant kinds of autonomy. This is especially evident, she thinks, when we reflect on the fact that, in many contexts, we do not judge a typical person’s autonomy to be diminished when she makes use of certain assistive technologies such as calculators and notebooks or even when she seeks advice or information from other people. Indeed, we sometimes think that her autonomy is heightened when she avails herself of these forms of assistance. Similarly, in some contexts a person with minor mental retardation who relies on a caregiver for help in planning the week’s meals may not

differ greatly as far as autonomy is concerned from a busy professional who relies on a housekeeper for the same sort of help. Since many people with cognitive disabilities also make use of such assistive devices, albeit sometimes to greater degrees than the average person, and sometimes not by choice, Francis holds that these people are more autonomous in certain senses than we may tend to suppose.

Douglas MacLean takes up the vexing question of what attitudes we should have toward people with severe dementia. MacLean is particularly interested in the sorts of moral relationships that exist between people in the mid to late stages of Alzheimer's and the people who care for and about them. A difficulty in claiming that such people are owed our respect, in addition to our care and support, MacLean argues, is that they do not seem to have the sort of autonomy that respect is typically thought to require. The capacities to determine one's own ends, assess one's desires, make reasoned decisions, and much else diminish as Alzheimer's progresses; and there comes a point where some people with this disease seem no longer to be autonomous. If we are to justify affording them the sort of respect many tend to think they are owed, we must find some other basis for it. Identifying such a basis may also help to explain some other commonly held attitudes of respect that do not seem to be grounded in autonomy, such as respect toward the bodies of the dead and towards people who are permanently unconscious. MacLean proposes that we should conceive of moral persons, not as bundles of capacities that exist at particular times, but as organic beings who tend to live lives of a narrative structure, with our plot developments, rising action, and declining action. As our stories progress, we tend to gain some capacities and to lose others, but what makes us who we are is how these various pieces fit together as organic wholes. MacLean suggests that, if we think of others in this way then it becomes clearer why people who may have lost some of the capacities they once had are still owed respect. Although they may no longer have the capacities necessary for autonomy, we still should love and respect them for the totality of their lives.

Jeff McMahan addresses the issues of moral status, inviolability, and distributive justice in his chapter on the radically cognitively impaired. McMahan also takes up some of the conceptual questions raised in other chapters by questioning the common assumption that physical and cognitive disability are different dimensions of the same problem concerning a

unitary group of people who all have equal moral status. In light of the marked difference between a radically cognitively limited human being and most other humans with respect to their psychological capacities and potential to realize the higher goods of wellbeing, McMahan doubts that such cognitively limited human beings should be called ‘disabled’ and he questions whether they have the same claims to equality of welfare. On his view, the inability of a radically cognitively limited human being to achieve higher levels of wellbeing is a feature of her individual nature rather than, as in the case of physically impaired persons, a contingent fact about the person’s circumstances. As McMahan sees it, what is possible for the radically cognitively impaired in light of their nature should form the standard by which to assess their ‘fortune’ or how well their lives are going. By that standard, these people are well off if their wellbeing is relatively high on the scale that measures the range of wellbeing accessible to them given their psychological capacities and potential. McMahan goes on to argue that if there is a plausible principle of equality that applies to the cognitively normal and the severely cognitively limited, it is a principle of equality of fortune. According to this principle, in their fortune from moment to moment, a cognitively limited human should do as well by reference to her own capacities and potential as a cognitively normal human does by reference to his capacities and potential. Such a principle, McMahan argues, may be preferable to equalizing wellbeing and giving priority to the worst off. Not only does his requirement not involve the levelling down of wellbeing, but it also need not require that we always improve the objective wellbeing of those with severe cognitive limitations so long as they have achieved the same level of wellbeing relative to their capacities and potential as other people.

Like McMahan, Frances Kamm takes up the theme of distributive justice. In her chapter, she considers, how, if at all, disability should figure in decisions about distributing scarce healthcare resources. The basic problem she considers is that giving resources to the disabled is often less effective—produces a worse outcome—than giving those same resources to non-disabled people, especially when we are unable to correct the disability. Giving life-saving treatment to an otherwise healthy person, for example, will usually produce a better state of affairs in terms of wellbeing than giving it to a person with paraplegia. It may seem, however, that taking into account the goodness of outcomes in certain ways when making these

sorts of decisions involves invidious discrimination by affording disabled people fewer resources than they might deserve, and doing so on the basis of their disability. Kamm aims to find a set of moral principles that both shows appropriate respect for persons and also accounts for our judgements in a variety of conflict cases involving people with disabilities where we must decide how to distribute healthcare resources. The first of two main principles she formulates tells us that, in cases where we are deciding how to distribute one sort of good, say that of saving someone's life, certain other goods are irrelevant to our choice, such as that of curing someone's sore throat. If we can save the life of only one of two people and one of them we expect to live for a few more years than the other one, because the latter person has a disability, this principle implies that our choice should not be affected by the few additional years of life. The other principle Kamm develops holds that we should treat people whose lives are worth living only in ways in which their identity does not count either in favour of or against them. According to her, when distributing life-saving treatment, this principle implies that we should not hold a person's disability for or against him; although if the treatment on offer is intended to address his sort of disability, then his having the disability can be relevant to our decision. The focus of Kamm's chapter is to develop these two principles and provide a detailed discussion about why, taken together, they form a part of a more or less justified way to distributing healthcare resources.

A final core theme of this volume, addressed most directly by David Wasserman, Rosalind McDougall, and Richard Hull, and indirectly by Douglas MacLean, is that of parental virtue (or familial virtue) and reproductive decision-making. David Wasserman's chapter explores an apparent moral asymmetry between actions that raise the chance of having a child with an impairment, which seem to be in most cases wrong, and actions that lower the chances of having a child with an impairment, which usually appear to be permissible or even sometimes morally required. Wasserman argues that endorsing this asymmetry can be incompatible with a parental ideal of 'unconditional welcome' which is an attitude many people think parents should have towards whatever child they produce. While he appreciates the initial plausibility of this ideal, Wasserman offers an alternative that requires parents to be able to justify to their child any serious harm they expect the child to suffer as necessary or

unavoidable for her or his overall good. According to Wasserman, parents have a justification of the required sort only if they regard such harm as necessary for the existence of any child they could have or for the kind of child they seek to have. Whereas Wasserman's justification requirement would oppose conduct that incidentally raises the odds of impairment, it would not oppose all conduct that knowingly raises those odds. The requirement would condone, however, many selective choices that the unconditional welcome rationale would condemn such as maintaining a genetic connection between parents and child or seeking to produce a particular kind of child.

In contrast to Wasserman's harm-based approach to parental decision-making, Rosalind McDougall sketches out a virtue-based approach to those choices. According to McDougall, the main problem with harm-based approaches to procreative decision-making is that, in light of the non-identity problem, the welfare of a potential child cannot have a direct influence on our decisions about whether to have her unless there is a significant risk that she will lead a life that is not worth living. Being brought into existence, in other words, is a harm only if one stands to lead a life that is not worth living. According to McDougall, if we are sure that a potential child will live a worthwhile life, the harm-based approach implies that her wellbeing should not figure directly in our decisions about whether or not to bring her into existence. McDougall thinks this is unacceptable. On her view, the wellbeing of our potential children should figure prominently in our decisions about whether to have them. Her alternative approach to procreative decision-making specifies a set of parental virtues, which in most cases derive from the aim of promoting the flourishing of one's actual and potential children. Correct procreative choices, she argues, are those that a virtuous parent would make. Three of the virtues she discusses are stable dispositions (1) to accept the characteristics of one's child that are conducive to her flourishing, (2) to be committed to fulfilling one's child's needs, and (3) to be moved to promote the development of one's child. After fleshing out this position, McDougall shows how her account can make sense of a variety of difficult parental choices having to do with the selection for or against children with disabilities. Thinking about what a virtuous parent would decide to do in these situations, she argues, offers a compelling account of how we all should approach these decisions.

In his chapter ‘Projected Disability and Parental Responsibilities’, Richard Hull develops a hybrid conception of disability as an interplay between medical and social factors and he argues that in all but a few cases it is quite unclear whether choosing a disabled child is wrong. Hull argues, first of all, that since social factors are a key aspect of disability, we have reason to change social structures so as to alleviate the disabling and disadvantaging effects of impairment. Second, even where social changes cannot alleviate all significant disability, he suggests that most persons with disabilities lead worthwhile lives that are far preferable to non-existence. This, he argues, casts doubt on the claim that parents can act wrongly by choosing to have a disabled child who will lead a genuinely worthwhile life rather than choosing not to have that child. Third, as noted above, Hull believes there is much to be said for moving beyond any rigid distinction between ‘disabled’ and ‘non-disabled’. He advocates a more inclusive conception of the overlapping frailties and vulnerabilities that most people experience, which he thinks may cultivate greater willingness to adjust social structures to reduce the cumulative disadvantages of functional loss and limitation. Concerns about certain reproductive choices must be tempered, according to Hull, by an appreciation of the intensely personal nature of these choices, which are likely to affect us deeply and so can have profound effects on our own ability to flourish.

As these summaries indicate, the chapters in this collection advance debates on a variety of moral and political issues while opening up several paths for future research. First, although important work has been done to pin down the concept of *disability*, an interesting strategy, gestured at in several of the chapters, would conceive of disability as a family of distinct but related concepts concerning, including the notions of, disadvantage and vulnerability, that play interwoven and overlapping roles in moral, political, epistemic, personal, and social contexts. Second, it is worthwhile to reflect critically on the sorts of objections that disability rights advocates tend to make against certain kinds of theories and policies. Although some of these objections are made for largely political purposes, we should be sensitive to the fact that certain views can express hurtful or wounding messages to those with disabilities, so we need to be mindful of how we assess and present our views about disability. Third, proponents of a broadly Rawlsian approach to justice could consider more fully whether some of the disability-related criticisms against

this approach can be adequately addressed from within that perspective, either on the basis of the basic view itself or with minor modification or supplementation.<sup>2</sup> Development of these and related debates makes all the more vivid the range of normative issues to which the concerns of this collection apply.

<sup>2</sup> See A. Cureton, 'A Rawlsian perspective on justice for the disabled', *Essays in Philosophy*, 9 (2008), 1.