

Three Aristotelian Accounts of Disease and Disability

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ABSTRACT *The question of whether medical and psychiatric judgements involve a normative or evaluative component has been a source of wide and vehement disagreement. But among those who think such a component is involved, there is considerable further disagreement as to its nature. In this article, I consider several versions of Aristotelian normativism, as propounded by Christopher Megone, Michael Thompson and Philippa Foot, and Martha Nussbaum. The first two, I claim, can be persuasively rebutted by different modes of liberal pluralist challenge — respectively, pluralism about structures of social organisation and pluralism about biological forms. Nussbaum's version, by contrast, is alert to the need for pluralism; I argue, however, that the Aristotelian aspects of her theory hamper her pursuit of those pluralistic aims.*

1. Introduction

The question of whether medical and psychiatric judgements involve a normative or evaluative component has been a source of wide and vehement disagreement. But among those who think such a component is involved, there is considerable further disagreement as to its nature. My aim in this article is to distinguish and criticise several neo-Aristotelian accounts of human biological wellbeing from within a normativist framework.

I consider three versions of Aristotelian normativism, as propounded by Christopher Megone, Michael Thompson and Philippa Foot, and Martha Nussbaum.¹ Though I won't elaborate it at any length, I will criticise these from a broadly liberal, democratic standpoint, premised on the notion that facts and values are distinct and separable; none of the Aristotelian positions, I will show, is adequate to unsettle that widespread intuition. While this approach will therefore leave many aspects of the disease concept unresolved, it will nonetheless show that the Aristotelian approach to that concept is generally unpersuasive.

2. Medical Aristotelianism 1: Megone's Account

The first, and most straightforward, neo-Aristotelian approach to medicine and psychiatry which I want to consider has been developed and advanced by Christopher Megone.² Megone identifies three widely held and plausible claims which characterise his position:

... that it is part of the meaning of illness that it is bad for its possessor, so the concept of illness is essentially evaluative; that if a person has a mental illness, that is a fact about him; and that the same concept of illness is applicable in the case of mental illness as in that of physical illness.³

That these claims do not receive universal assent, argues Megone, is due to a set of metaphysical beliefs which he, as an Aristotelian, is concerned to rebut; in particular the supposed ‘fact-value distinction’. But as I shall argue, the claims are entirely compatible with, and perhaps even best explained by, a distinction between facts and values; and they are otherwise quite metaphysically and metaethically innocuous.

Megone demonstrates that, contrary to the claims of Thomas Szasz, Christopher Boorse, and Jerome Wakefield,⁴ the concept of function is always in significant part evaluative, and that judgements of the impairment of medical and/or psychiatric function are consequently normative in nature.⁵ So ‘an Aristotelian account of the natural world’, in Megone’s telling, ‘fuses so-called *facts* and *values* (the terms are not Aristotelian)’;⁶ to judge how well something performs its function is to state certain facts about it, but it is equally and at the same time to evaluate it.⁷

Megone therefore proposes an explicitly metaphysical view of medical practice. But we can preserve the same intuitions without any robust metaphysical commitment, I shall argue, exactly by stressing the *separability* of facts and values in medical contexts, and the contingency of the social arrangements which bind them together. Illnesses, I shall claim, are certainly factual in the sense Megone claims; they supervene on physical or mental/behavioural states, and so whether an individual is in such a state is a fact about him or her. And whether a given physical or mental state will count as an illness — will be supervened upon — depends on whether or not it is evaluated as ‘bad for its possessor’.⁸

But such states are bad for their possessor only *ceteris paribus*, or given certain background facts about the context of the possessor’s life. Megone supposes that knowing whether or not an individual possesses the condition in question allows us to evaluate its impact on the individual’s life. Against a different background of facts, however, we will evaluate the same condition differently. Immobility, for instance, is bad for its possessor just insofar as the relevant form of mobility is necessitated by her environment; so in most human societies the inability to walk will be bad, but the inability to fly will not.⁹ Ray Aldred, a philosopher with Muscular Dystrophy, offers a vivid illustration of how this kind of *ceteris paribus* reasoning ‘ignores complex differences in different modes of performance’;

There are instances where wheelchair users are at an advantage: when in a wheelchair accessible environment, in particular. Consider my recent trip to Vegas. My friends had to slowly walk in scorching heat to each of our destinations. Vegas also has a lot of space between different buildings, requiring walking longer distances. In comparison to my friends, I just had to turn up my wheelchair speed and roll to the next destination. For me, limited time was spent outdoors. Meanwhile, my friends were exhausted and covered in sweat. Now, we are in an equal environment, I was the ‘disabled’ person, yet I was better off. All else being equal, it was better to be in a wheelchair in Vegas. . . . The condition and the value assessment of the condition are conceptually distinct. We can study the condition and describe it, and the question of whether it’s bad or good is different.¹⁰

The example of Deaf communities is also instructive in this regard. It is hard for many in the hearing-community to imagine a society so different from our own that deafness would present no social or functional disadvantage, and where a deaf person would not, consequently, consider herself disabled. Yet that is in fact the condition of Deaf

communities — typically and henceforth distinguished by the capital ‘D’ — in contemporary society, which have developed their own languages, literatures, social and recreational outlets, and political agenda. As many Deaf people see it, they are no more disadvantaged than are the members of any other linguistic minority; and many, to the surprise of the hearing-community, have strenuously resisted the attempt to ‘remove’ babies from their culture by the use of cochlear implants.¹¹ Many, again, explicitly regard their being deaf as a good thing;¹² the proper evaluation of the condition, again, is not simply given by the fact of the condition.

In other cases, we can more easily imagine the sorts of shift in the background facts about social organisation that would make given physical or mental conditions cease to be ‘bad for their possessor’. Rachel Cooper considers three examples; a black person suffering racial discrimination, a gay person regretting that he has no children, and an ugly person who is unable to find a partner. ‘In all these cases the problems are relational’, she notes,

... in that they can potentially be solved either by changing the individual or by making changes to society. Black people could have their skin bleached or society could stop being racist. The gay man could have sex with a woman, children could be obtained via artificial insemination, or changes in adoption law could permit his becoming a parent. The ugly person can have plastic surgery or social notions of the beautiful or of qualities requisite in a partner could shift.¹³

Indeed, these are cases where the appropriate remedy is so obviously social that — with perhaps the exception of severe deformity — most of us will have distinct difficulty even in conceiving the conditions in question as diseases or disabilities. Yet it was only in the 1960s that homosexuality was removed from the American Psychiatric Association’s *Diagnostic and Statistical Manual of Mental Disorders*, and in 1990 that it was removed from the World Health Organisation’s *International Statistical Classification of Diseases and Related Health Problems (ICD-10)*; as influential a figure as Christopher Boorse continues to classify it as a disease, though as an anti-normativist he is careful to stress that no ethical judgement is thereby intended.¹⁴ And while few have seriously considered darker skin to be disordered *as such*, some 19th-century psychiatrists were notoriously exercised by the phenomenon of ‘drapetomania’, or the seemingly inexplicable behavioural tendency of black slaves to flee their captivity.¹⁵

So there is always the choice either to treat — and ‘correct’ — the individual’s condition, or to reform the relevant social arrangements.¹⁶ More generally, a society must weigh ‘(a) what changes are practically possible, (b) whether it is easier for society or the individual to change, and (c) the history that resulted in the problem in the first place.’¹⁷ Though skin-colour, homosexuality, and ugliness frequently have just the negative effects for their bearers that Cooper describes, it is properly the attitudes towards them, and not the conditions themselves, which we evaluate as bad for the black, gay, or ugly person, and hold responsible for those effects.

Megone argues, correctly, that judgements about appropriate biological functioning are at once factual and evaluative. For a neo-Aristotelian like him, the correct evaluation simply follows from the relevant objective facts about humans in general and this human in particular; the fact of the condition gives the proper valuation of the condition.¹⁸ But what we have seen is that ‘the relevant facts’, objective as they may be, are not limited to

the question of possessing the condition or not; illness supervenes on any given condition only with the complicity of a broad range of contextual social facts, which are themselves subject to negative evaluation and consequent revision; and it is only relative to these background facts that we can evaluate whether or not the fact of having the condition is bad for its possessor. In other words, while Megone is right that no 'value-free' judgement of disease is possible, he is evidently wrong to infer a collapse of the fact-value distinction; changing any of a very broad range of pertinent facts may lead us to very different evaluations of the same medical condition, and whether or not we change them will itself depend on the evaluative decisions we take as a society. Identifying the existence of a condition does not, on its own, tell us how we should evaluate its impact on a patient's life.

3. Medical Aristotelianism 2: The Foot-Thompson Account

Megone's neo-Aristotelian account of disease is primarily, and straightforwardly, an attempt to give a neo-Aristotelian account of disease. In the writings of Michael Thompson and Philippa Foot, whose positions are closely intertwined,¹⁹ an account of biological disease is advanced explicitly in the service of a neo-Aristotelian virtue ethics. As Foot argued in an earlier incarnation of her views, 'there is a conceptual connexion between *life* and *good* . . . (H)owever, it is not the mere state of being alive that can determine . . . good, but rather life coming up to some standard of normality.'²⁰ It is not my intention here *directly* to challenge the project of Aristotelian ethics; but my argument in this section will have obviously damaging implications for any attempt to ground such an ethics on what, I argue, is an untenable view of biology.

Thompson's aim is to replace the empirical understanding of concepts such as 'life', 'life-form', and 'species' with a metaphysical, or 'pure or a priori' concept.²¹ This is necessary, he claims, because whatever empirically grounded criteria we give for counting as a member of one of these categories — containing DNA, for example — our folk-biological instincts would still hypothetically classify as 'life-forms', or 'species', or 'living things' some notional entities — aliens or angels, for instance — lacking those features.

To support this account Thompson turns to a semantic analysis not, curiously, of biological writing and research, but of the sort of intuitive judgements exemplified by 'the voiceovers on public television nature programmes.'²² These are characterised, he finds, by a distinctive form of speech he terms the 'natural-historical judgement', or 'Aristotelian Categorical.'²³ Such statements are typically formulated in the present tense, and involve descriptions that, though predicable of particular individuals, are understood in context to apply to a whole biological kind in general; thus, 'the domestic cat has four legs', 'the dolphin is a sociable creature', and so forth. Nor are these statements understood as universally quantified, and disproved by a solitary bad-tempered dolphin, or a misfortunate cat which has lost its paw in an accident; rather, they are understood to have a special logical form where the predicates hold of the kind described, as Aristotle says, *hos epi to polu*, or 'for the most part'.²⁴ Indeed, says Thompson, even this is not quite right; the great majority of mayflies die before ever breeding, yet we may still say, with no impropriety, that 'the mayfly' breeds shortly before dying.²⁵

As Foot explains, 'what distinguishes an Aristotelian categorical from a mere statistical proposition about . . . the members of a kind of living thing is the fact that it relates to

the teleology of the species.²⁶ Put another way, it refers to features of the individuals which are properly comprehensible only in terms of ‘the “wider context” of vital description’,²⁷ namely the form of life appropriate to the proper functioning of the species. Individual cats may lack limbs, and individual dolphins may shun their fellows, but the ‘life-form’ of cats favours quadrupedality, and that of dolphins gregariousness; mayfly lives proceed as they do because the successful breedings, rare as they are, are nonetheless what brings new mayfly lives into being.

From these ‘Aristotelian Categoricals’, argue Foot and Thompson, we can therefore derive normative judgements; the features they describe possess ‘what one might call an “autonomous”, “intrinsic”, or . . . “natural” goodness and defect’ independent of any human choices, interests, or judgements.²⁸ Such Categorical statements, and *a fortiori* such evaluative claims, may be made about the human body and its functions — about ‘the evaluation of human sight, hearing, and bodily health’ — just as easily as about any other animal; and likewise, Foot goes on to argue, human actions should be judged in terms of objective biological functionality, irrespective of the attitudes particular societies or individuals may hold towards them.²⁹

There are two objections worth making at this point. The first is that the sort of statements Thompson discusses, more commonly known as *generics*, simply do not have the intuitive force of objective natural descriptions, as he claims. Rather, as Sarah-Jane Leslie has shown, speakers accept generics for ‘strikingly dangerous’ properties (‘ticks carry Lyme disease’, ‘sharks attack swimmers’, or ‘Muslims are terrorists’) much more readily than for properties with ‘positive counterinstances’ (‘books are paperbacks’, ‘Canadians are right-handed’, ‘teachers are female’), even when they recognise that the positive counterinstance properties are far more statistically prevalent. So such generalisations may be counted true or false; but our willingness to accept them as one or the other reflects our subjective human concerns far more than it does any objective state of the world.³⁰

Secondly, while it is true that many contemporary philosophers of biology talk unabashedly of teleology, of ‘objective biological functions’, that talk is not as helpful to Foot and Thompson’s project as they seem to imagine. There are two principle accounts of what biological functions are; the ‘etiological’ approach associated with Larry Wright, Ruth Garrett Millikan, and Karen Neander, among others, and the ‘dispositional’ approach, whose proponents include Ernest Nagel and Robert Cummins.³¹ The first of these tells us, approximately, the contribution a trait has made to the past survival and reproduction of an organism’s ancestors, which explains its presence in the organism today; the second tells us, more or less, the contribution the trait *currently* makes to the organism’s survival and reproduction. But neither of these has any obvious necessary conceptual connection to, let alone can be said to *determine*, human good; neither is the sort of thing that could ground a general theory of ethics, as Foot wishes.

This is not to say that the etiological and dispositional accounts of function are irrelevant to judgements of health and illness. The ‘biostatistical’ theory of disease, first elaborated by Christopher Boorse and more recently developed by Gualtiero Piccinini, Justin Garson, and Daniel Hausman, among others, relies explicitly on the dispositional account of function; a disease is, more or less, an internal state which causes a dispositional function to drop below the statistically normal range.³² Both Neander herself and Jerome Wakefield have developed theories of disease based on the etiological account of function.³³ But these theories explicitly eschew the kind of normative implication that

Foot and Thompson wish to derive from biological functions. Boorse, for instance, in describing his account of disease as ‘statistical’ and ‘empirical’, specifically opposes that view to an evaluative one. Wakefield’s ‘harmful dysfunction’ account, similarly, provides *two* necessary conditions for the presence of disease; the evaluation of the condition as ‘harmful’ is separate from its factual characterisation as (etiologically) dysfunctional.

Even if natural normativity of the sort described by Foot and Thompson does exist, it could give us no determinate basis to make evaluative judgements about human health. This is, briefly, because determinately identifying *the* appropriate ‘form of life’ to use as an evaluative standard is impossible in a post-Darwinian universe. Even if the Aristotelian were correct about the normative import of such forms, a modern understanding of biology provides us with an unlimited range of them to choose between as bases for our evaluations.

For both Foot and Thompson, the ‘life-forms’ with which they are concerned are, if not homogenous, then substantially unitary. Foot describes the object of her attention explicitly as ‘“*the* life” characteristic of *the* kind of animal with which the categoricals here have to do’, while to flourish ‘is to instantiate *the* life form of that species.’³⁴ Thompson, similarly, declares himself concerned with ‘our representation and knowledge of *the* specifically human life form’, and with ‘what makes our species to be *the* sort that it is.’³⁵ All those definite articles are significant; there is a *particular* way, Foot and Thompson think, that the lives of humans, and the lives of plants and other animals — conceived as members of particular *kinds*, characterised by particular *essences* — should go.

While it is no doubt true that species and other biological kinds will have ‘essences’ in the fairly bare, minimal sense of possessing determinate if often vague membership criteria,³⁶ such essences play no explanatory or justificatory role in post-Darwinian biology.³⁷ What is common between the members of a biological kind — whether defined by interbreeding, heredity, similarity, or adaptive niche³⁸ — is a matter of historical accident; the ‘essence’ of any such group, in the sense described above, reflects rather than dictates its composition. But within such groups, as Darwin stressed, *variation* is ubiquitous, and almost without limit;³⁹ there are, then, no intrinsic features of biological kinds, and explanations of individual traits in biology can appeal to the properties of species or other kinds — rather than those of the individual organisms — only as the basis for comparatively weak generalisations.⁴⁰ These may be sufficient to ground Boorsean or Wakefieldian accounts of health and disease, but they cannot sustain the sort of heavily normative implications with which Foot is concerned.

One crucial consequence of the absence of intrinsic features is that ‘essences’ in this sense may be defined for groups of any size or composition, and the essences of species have no special biological, let alone normative, standing. Put another way, there is no reason to take the membership conditions of a species to be any more normative for its individual members than those of any other group to which they belong. Foot expresses a worry about, and devotes a chapter to answering, the sceptic who responds to being told ‘that human beings are defective as human beings unless they do what is needed for human good’ with the question ‘But what if I do not care about being a good human being?’⁴¹ But a more worrisome question, from her point of view, ought to be ‘What if I want to be a different *sort* of human being?’

Deaf communities, once more, illustrate the point neatly. Deafness is experienced, by many of them, as a linguistic difference rather than a disability; a Deaf person, they

argue, is no more a deficient human than a Quebecois Francophone is a deficient Canadian. The appropriate way to evaluate their lives, as far as many of the Deaf are concerned, is therefore not according to the ability to participate in the ‘forms of life’ of the hearing community, since they have no need to participate in those forms, and their quality of life does not hinge on doing so. Of course, the forms of deaf life substantially overlap those of the hearing community, but this only illustrates Foot’s unremarkable observation that ‘quite general’ claims can be made about human good, given that the classification ‘human’ already implies a substantial level of ‘quite general’ similarity; again, these generalisations about what is ‘normal’ for humans may license the sort of accounts of disease which Boorse and Wakefield pursue, but they get us no way towards the claim that any *particular* form of human life is normative for any other human.

My point here is not to support the substantive view that deafness is not a disability, or that it can be a good thing to be Deaf. The point is, rather, that there is no *a priori* reason to prefer being a hearing person to being a Deaf one, as Aristotelians must suppose. We can make the point sharper with an example from the seemingly inexhaustible philosophers’ resource that is science-fiction literature.⁴² China Miéville, in *The Scar*⁴³ and elsewhere, explores the notion of ‘Remaking’, a sort of involuntary body-modification wherein the city of New Crobuzon punishes its criminals by various grotesque disfigurements, ranging from the twisting of a neck through 180° so its owner sees always and only behind his back, to the surgical attachment of appendages ranging from extra limbs to steam-powered iron wheels in place of their legs. One of *The Scar*’s protagonists, Tanner Sack, is ‘Remade’ in this way, with two tentacles implanted in his chest, before being sent to the colony of Nova Esperium for a life of penal servitude.

When the floating city of Armada captures the ship transporting him, everyone on board, including Tanner and the other Remade prisoners below deck, is press-ganged into its service. For the prisoners, this represents a reprieve; they are captive in the floating city, like all its residents, but while there they are accepted as free and equal citizens. Finding a job doing maintenance below the city, Tanner is able to put his disfiguring tentacles to productive use, and is treated with dignity. In time, to better perform his job, he pays from his own wages for further aquatic modifications; he is given gills, and webbed fingers and toes. ‘I was going to be a slave in the colonies’, he explains to a young friend; the city’s rulers ‘took me in and gave me a job and told me they didn’t give a cup of p*ss that I was Remade. [They] gave me my life, Shekel, and a city and a home . . . New Crobuzon can kiss my a*se, lad. I’m an Armada man . . . I’m loyal.’⁴⁴

Tanner, like the other Remade, has become a different *sort* of human being. Most will experience the process as a permanent humiliation and torture, which is (of course) the point of the exercise. On an Aristotelian view, Tanner too remains at best a mutilated, deficient human; indeed, Megone suggests that Aristotle would no longer recognise him as human *at all*.⁴⁵ But so much the worse, it is coherent to reply, for being human; the quality and dignity of Tanner’s life has been greatly enhanced by just the changes which deprive him of that supposed honorific. However involuntary (and unjust) his initial transformation, Tanner Sack has ceased to evaluate — and ceased to have any good cause to evaluate — his biological health according to ‘the form of life typical of his species’. The only ‘form of life’ now relevant to any such judgement is his own; that human lives *typically* go best in such-and-such a way is of no particular importance to him.

From the point of view of a liberal society, the example is not terribly hard to make sense of. People will differ over what does or does not count as disease, disability, or

disfigurement in their own lives. They may disagree beyond hope of resolution about the standard by which physical wellbeing is to be judged. But these are not questions which need to be resolved. It is not that they lack answers; on the contrary, there are a great many potential ways to answer them, and none of us has the political or social authority to decide which such answers properly apply to the lives of others. The most appropriate standard for evaluating a life, in short, will usually be the owner's own.

4. Medical Aristotelianism 3: Nussbaum's 'Liberal Aristotelianism'

It could be objected at this point that too subjective an approach to evaluating how well an individual life is going will have unwelcome consequences for a liberal society, since the experiences and situation of some individuals may blind them to the available possibilities, reducing their expectations and thereby leading them to accept as adequately rewarding lives that could objectively go a great deal better. Indeed, just this observation is at the root of the third neo-Aristotelian approach to medicine I will consider, the so-called 'liberal Aristotelianism' outlined by Martha Nussbaum.⁴⁶ This sort of Aristotelianism focusses not on the definition of illness and disease, but on the appropriate treatment of those they afflict; it is a political rather than a metaphysical approach, and shares a good deal of its sympathies and concerns with the sort of liberal stance I have assumed throughout this article.

Nussbaum, in close alliance with economist Amartya Sen, has developed what is termed the 'capabilities approach' to human welfare. Central to this approach is the realisation that '(a) thoroughly deprived person, leading a very deprived life', as Sen writes,

. . . might not appear to be badly off in terms of the mental metric of desire and its fulfilment, if the hardship is accepted with non-grumbling resignation. In situations of long-standing deprivation, the victims . . . very often make great efforts to take pleasure in small mercies and to cut down personal desires to modest — 'realistic' — proportions . . . The extent of a person's deprivation may not at all show up in the metric of desire-fulfilment, even though he or she may be quite unable to be adequately nourished, decently clothed, minimally educated, and properly sheltered.⁴⁷

Thus, relying on individuals' assessments of their own wellbeing throws up paradoxical results: the inhabitants of the comparatively affluent Kerala state, for instance, whose life expectancy is the highest in India, complain far more frequently of ill-health than those of desperately poor Bihar, who have the lowest.⁴⁸

This phenomenon of 'adaptive preferences', Nussbaum argues, exposes a significant problem with using people's own choices and professed satisfaction to determine what is best for them and whether or not they are achieving it; those who are excluded from participation in some aspect of a full human life are often consequently unable to recognise it as such, thereby tending to reinforce an unjust status quo.⁴⁹ The position of severely disabled persons presents an even more acute problem for adherents of a Rawlsian liberalism; not only may such persons lack the physical or intellectual capacity or the 'basic general knowledge' necessary to adequately express their perspective in an Original Position, but as very substantially and disproportionately dependent on others

they will be overlooked, as Rawls concedes,⁵⁰ by any account of justice which is based on the securing of mutual advantage among approximate equals.⁵¹

Nussbaum, whose explicitly liberal project aims at upholding and recognising ‘the equal dignity of [all] human beings’,⁵² repeatedly stresses the contingency of social and political arrangements, and the degree to which these exacerbate or even create the unfavourable condition of the ill or disabled,⁵³ insists on the importance of a high degree of patient autonomy,⁵⁴ and rejects the notion of privileged authority, aiming ‘to avoid concepts that belong to one major comprehensive metaphysical or epistemological view of the human being rather than another, such as the concept of the soul, or of a natural teleology, or of self-evident truth.’⁵⁵

But for Nussbaum, who considers Rawls’ approach to be ‘the strongest political theory in the social contract tradition that we have’,⁵⁶ such Kantian procedural accounts of human dignity are — because of their difficulties in recognising and respecting the interests of the afflicted — unable to adequately undergird a properly liberal view of disability and illness. What is required instead is an Aristotelian perspective, which ‘make(s) personhood reside in . . . the needs that human beings share with other animals’,⁵⁷ and it is to this end that she and Sen have developed the ‘capabilities approach’ to human wellbeing. What Marx called ‘rich human need’ and its successful fulfilment are best evaluated by reference to an open-ended and contingent list of requirements which must be possessed, or as far as possible provided, at least above some minimum threshold level: *life; bodily health; bodily integrity; senses, imagination, and thought; emotions; practical reason; affiliation; other species; play; and political and moral control over one’s environment.*⁵⁸

So unlike Megone, or Foot and Thompson, Nussbaum does not aim to define health in terms of flourishing; rather, it is one of the necessary conditions for the richer concept of dignified human flourishing which she elaborates. Nor is the notion of flourishing embodied in Nussbaum’s capabilities approach, by contrast to the views of Foot and Thompson, ‘a single idea of flourishing, as in Aristotle’s own normative theory, but rather an idea for a space of diverse possibilities of flourishing’; ‘reasonable citizens’ are supposed to be able to agree on these as minimum requirements for a good life, whether or not they agree on anything else.⁵⁹ But what then, we might ask, is ‘Aristotelian’ about it? In truth, despite Nussbaum’s determination to exclude any comprehensive metaphysical doctrine from her theorising,⁶⁰ it smuggles in an implicitly teleological notion of the human person along, with just the sort of problems we have already seen beset such theories.

Nussbaum writes movingly about the plight of the ill and disabled, and of the ways in which existing social provision for their conditions serves to stigmatise them and to impair their inherent dignity as human persons. But while she follows Eva Feder Kittay in rejecting psychological capacities as the unique basis for moral personhood,⁶¹ the notion of dignity at work here — as with her fellow Aristotelians — is crucially dependent on membership of the human *species*. Although the notion of human nature involved is, she stresses, ‘explicitly and from the start *evaluative*, and, in particular, *ethically evaluative*’,⁶² stressing capacities which people may have the misfortune to lack, and disregarding others — such as cruelty — that they may possess, it nevertheless sets a standard for what is to be counted as ‘fully’ human — as fully realising the *ergon*, or function, appropriate to humans as such — with which some humans may have legitimate grounds for disagreement, and which may in fact contribute to their stigmatisation and exclusion.

Consider once more the position of Deaf communities, who are strongly resistant to the idea that their condition represents a disability, and who indeed regard as insulting the notion that they are merely ‘diminished’, *malfunctioning*, hearing people. The standards by which we judge the flourishing of hearers, they argue, are simply not appropriately applicable to their own lives. Nussbaum is aware of such concerns, and points in response to the number of social adjustments which can typically be made to raise the level of functioning of the disabled above a given threshold; ‘using a different list of capabilities or even a different threshold of capability as the appropriate social goal for people with impairments is practically dangerous’, she argues, ‘because it is an easy way of getting off the hook, by assuming from the start that we cannot or should not meet a goal that would be expensive or difficult to meet.’⁶³ A single set of capabilities, moreover, helps to *emphasise* that ‘[the disabled] are just as much individuals as anyone else is, not *types*, not a lower kind that we set off from the human kind.’⁶⁴

Nussbaum’s concern with the possibility of social reform and accommodation, with ensuring that easy excuses are not found to shirk our responsibilities in this respect, and with stressing the valid personhood of the ill and disabled, is to be applauded and emulated. But while regarding the disabled as a separate and lesser ‘type’ may rightly be considered abhorrent, it is no more so than regarding them as inferior instances of the same type, which seems the inevitable upshot of the Aristotelian approach. To see this, consider Aristotle’s notorious views on the nature and moral status of women, whom he excluded from the possibility of properly human flourishing, declaring them ‘a deformity, though one which occurs in the ordinary course of nature.’⁶⁵ Though undoubtedly human, and necessary for the reproduction of men, women are — judged by the appropriate ‘species norm’ — a sort of aberration, who must content themselves with a diminished, partial existence. This view, not unreasonably, strikes most people as deeply offensive, and wholly at odds with the view of women as men’s equals in human dignity.

Now, no modern Aristotelian holds this view, and Nussbaum — who rightly dismisses it as ‘both misogynist and silly’ — stakes out something like the party line by arguing that Aristotle was himself being *insufficiently Aristotelian* in this aspect of his theory; his view of women represents ‘not a deep defect in either his methodology or the substance of his scientific thought’, but ‘simply a grossly flawed application of methods that, properly applied, would have ascertained that the capabilities of women were . . . comparable to those of men.’⁶⁶ Thus, Aristotle thinks of women as diminished men⁶⁷ because like many others he is blinded by current political circumstances to the full range of women’s capacities. Alasdair MacIntyre, similarly, thinks his mistake was ‘not to understand how domination of a certain kind is in fact the cause of those characteristics of the dominated which are then invoked to justify unjustified domination.’⁶⁸ Both Nussbaum and MacIntyre, then, enlisting Marxist analyses to supplement their Aristotelianism, again stress the revisability of the social arrangements which themselves act to restrict individuals’ capacities. But the hostage which these explanations surrender to fortune is the underlying Aristotelian assumption that, *were* some group to display significantly diminished capacity to fulfil the human *ergon* in this way, whatever that turns out to be, *we would* inevitably have to consider them to be diminished by the standards ‘appropriate to the human species’, when it is just in this situation that we do find the disabled to be in.

A caveat is due: Nussbaum stresses that she doesn’t envisage a single or narrow view of what it is to be a fully-functioning human, and that her view, consequently, ‘does not entail [genetically] engineering Down syndrome away, or Asperger’s, or blindness and

deafness, although it does not speak clearly against this either' since 'there is a realistic possibility that [those afflicted] will attain the capacities that we have evaluated as humanly central.'⁶⁹ But her assumption about what an overlapping consensus of 'reasonable persons' will agree to be worth valuing is apt to beg the question somewhat, by dismissing just the sort of unexpectedly divergent views that a differently-capacited person may hold. In any case, even a very broad evaluative standard may be plausibly felt alienating by those who cannot 'measure up' in one way or another.

If we are to avoid offending and stigmatising the disabled community in just the way that Aristotle's view did and does women, we need an alternative to evaluation by the 'species norm'. The appropriate alternative in a liberal democracy is to make the appropriate standards of evaluation a matter of open-ended negotiation between medical professionals, society in general, and *the individuals themselves*. There is not just one type of person — nor just two — so evaluations have to be made on a fine-grained, discursive basis; we cannot look to any species-wide metaphysical standard for a shortcut. Thus, precisely as Aristotle went wrong in seeing the woman as a diminished man, we judge his followers to err in seeing a disabled person as a diminished version of an able-bodied one; in place of diminution, we emphasise *difference*.

An analogy may help at this point. Irish sprinter Jason Smyth — who suffers from Stargardt's disease, and has approximately 10% of normal human vision⁷⁰ — has, in addition to winning four Paralympic Games gold medals, competed successfully in open competition against fully-sighted athletes; he is Irish national champion, reached the semi-finals of the 2011 European championships, won a bronze medal in the European Team Championships of the same year, and missed qualification for the 2012 Olympics by just 0.04 of a second. Other cases, like that of double amputee Oscar Pistorius, are even better known. Clearly, if we can thus raise the functioning of a Paralympic athlete to compete on an equal footing with the best able-bodied athletes, then we should do so. But where we cannot, it still makes sense — even with the vastly expanded and inspirational view of the horizons of possibility for disabled sportspeople which Smyth's example affords us — to evaluate their sporting achievement according to appropriate Paralympic or Special Olympic categories, instead of regarding them as merely diminished or inferior rivals of their Olympic counterparts.

Nussbaum is correct, of course, that this approach risks giving comfort to the kind of bigot who subscribes to a hierarchy of higher and lower 'types' of person, seeing disabled people, or people of colour, or LGBT persons both as 'Other' and, *per se*, as comparatively lacking in moral worth. Some sports fans, to continue the analogy, regard Paralympic and Special Olympic competition as insignificant or — worse — as a sort of freak-show. But again, the problem is familiar from the struggle for sexual equality. Even today many sexists continue to regard women as just such an inferior kind to men,⁷¹ but the ongoing project of social reform *via* open-ended public negotiation has made huge — if painfully slow — progress in challenging and dispelling such attitudes as unjust and unsupportable. *Qua* liberal, Nussbaum should want *anyway* both to increase the capabilities of the worst-off, and to dispel the notion that difference entails inferiority. But this being so, the Aristotelian species-norm seems superfluous; it adds little to the liberalism of her position, while raising the risk of stigma in other ways.

What about the question of adaptive preference? Sen and Nussbaum are right to criticise the overreliance on subjective viewpoints and reports of personal wellbeing, which can be distorted by systematically reduced expectations; but we should be equally

wary of going too far in the other direction. As Sandrine Berges has recently argued, by rejecting the evidentiary role of self-assessment in determining wellbeing the capabilities approach ‘raises issues that . . . cannot be addressed satisfactorily in a way that wholly avoids paternalism’;⁷² and medical paternalism is an outcome that Nussbaum explicitly wishes to avoid.⁷³ Elizabeth Barnes, on related grounds, calls for acute caution in invoking adaptive preference, pointing out that its diagnosis is both question-begging (since it simply *assumes* that the conditions in question are sub-optimal and thus apt to cause preference-adaptation) and prone to over-generalisation (since it can be applied *mutatis mutandi* to, for instance, gay people with clearly absurd results).⁷⁴

At some point, in other words, bullets must be bitten. We can attempt to reduce adaptive preference by constantly striving to maximise the information available to participants in the public dialogue, and to ensure that disabled or disadvantaged individuals never lose sight of the full range of possibilities available to them, as well as that the comparatively advantaged are fully informed about the ways in which the lives of others are restricted, and the ways in which those restrictions may be alleviated or redressed. Nonetheless, some adaptive preferences are extremely resilient; development workers sometimes find that such maximisation of information and educational and employment opportunities leaves them little changed.⁷⁵ On what remaining basis can we justify overruling such preferences? Our duty here seems to be exhausted by providing as full as possible an account of the factors relevant to decision-making; after this, the free decisions of those affected — if they are competent to make them — may be regretted, but must be respected.⁷⁶

Nussbaum’s ‘liberal Aristotelian’ account of disability and illness seeks to safeguard the equal human dignity of the diseased and disabled. But as we have seen, its Aristotelian features make those aims significantly harder to achieve. Though Nussbaum aims to avoid relying on Aristotle’s outmoded metaphysics, her use of species-norms thwarts her purposes. Species are a useful category of biological classification, but as we saw in the discussion of Foot and Thompson they have no particular — despite the etymology, no *special* — further significance. Attention to the human species as a whole may give us a good general picture of what possibilities of function are available in the lives of humans, but given the sheer ubiquity of intra-species variation the picture is far too coarse-grained to serve as a satisfactory basis for evaluating individual lives. Insofar as the liberal Aristotelian position is to be genuinely liberal, its Aristotelian aspects present an obstacle.

5. Conclusion

Darwin’s discoveries heralded the collapse of teleological reasoning about nature, the implications of which we are still, a century and a half later, trying to come to terms with. Despite the tremendous changes this has wrought in the scientific understanding of the world, the teleological view retains considerable intuitive support, reflected in folk-biological notions both about the nature of species, and the sort of normative judgements that can be appropriately made about them. I have agreed here, with the neo-Aristotelians who have sought to defend those folk-intuitions on a theoretical level, that medico-biological judgements are substantially normative; but I have held that this is because such judgements combine normative and factual elements according to their

place in contingent social arrangements, rather than because nature is itself normative. The folk idea of a single type, normative for all humans, simply does not reflect what we know about biology, and in particular the ubiquity and explanatory centrality of variation, in the aftermath of the Darwinian revolution. So a normative account of biological illness and wellbeing has to be equipped to deal with variety, and with potentially irreconcilable differences of opinion about appropriate normative standards. Even in the work of Martha Nussbaum, who recognises and places this need at the centre of her reasoning, liberal pluralism as a means of accommodating that variation and those differences proves incompatible with the Aristotelians' essentialist teleology and metaphysics.

The most satisfactory solution then, I have argued, will involve a broad public discourse of the sort that liberal political theorists have envisaged and liberal societies imperfectly pursued, in which maximally open, equal, honest, and free critical rational discourse forms the basis for a society that can come to recognise difference, accommodating it in progressively increasing degree by fostering attitudes of respect and understanding for and between divergent viewpoints. Processes like this are messy, and may give us no ready answers to our immediate classificatory and ethical disputes. But after the lessons of Darwin, we must accept that *human biology* in the broadest sense, fashioned as it is of proverbially crooked timber, is messy and complex in just the same way, and that any attempt to do justice to its full variety must therefore abjure the sort of metaphysical short-cuts which the neo-Aristotelians have attempted.⁷⁷

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NOTES

- 1 For example, Chris Megone, 'Mental illness, human function, and values', *Philosophy, Psychiatry, and Psychology* 7 (2000): 45–65; Philippa Foot, *Natural Goodness* (Oxford: Oxford University Press, 2001); Michael Thompson 'The representation of life' in R. Hursthouse, G. Lawrence & W. Quinn (eds) *Virtues and Reasons: Philippa Foot and Moral Theory* (Oxford: Clarendon Press, 1995), pp. 247–96; Martha Nussbaum, *Frontiers of Justice: Disability, Nationality, Species Membership* (Cambridge MA: Belknap Press, 2006).
- 2 For example, Chris Megone, 'Aristotle's function argument and the concept of mental illness', *Philosophy, Psychiatry, & Psychology* 5 (1998): 187–202; Chris Megone 'Response to the commentaries', *Philosophy, Psychiatry, & Psychology* 5 (1998): 221–24; Chris Megone, 'Mental illness, metaphysics, facts and values', *Philosophical Papers* 36,3 (2007): 399–426.
- 3 Megone op. cit. 2007, p. 399.
- 4 For example, Thomas Szasz, 'The myth of mental illness', *American Psychologist* 15 (1960): 113–118; Christopher Boorse, 'On the distinction between disease and illness', *Philosophy and Public Affairs* 5 (1975): 49–68; Jerome C. Wakefield, 'Disorder as harmful dysfunction: A conceptual critique of DSM III-R's definition of mental disorder', *Psychological Review* 99 (1992): 232–247.
- 5 For Megone, this is explained by the 'function argument' of Aristotle, *Nicomachean Ethics*, trans. W.D. Ross, revd. edn. (Oxford: Oxford University Press, 1998), Bk. I.7. Following Terry Irwin, Martha Nussbaum, and others, Megone interprets Aristotle here as appealing to the doctrine of natural kinds outlined in the *Physics* II.1–8; the function (*ergon*) of such a kind is to actualize its essential (*ousia*) properties, its natural goal (*telos*) is to perform the function, and the achievement of this goal is its supreme good (*eudaimonia*). See, e.g., T.H. Irwin, 'The metaphysical and psychological basis of Aristotle's *Ethics*' in A. O. Rorty (ed.) *Essays on Aristotle's Ethics* (Berkeley, CA: University of California Press, 1980), pp. 35–53; Martha Nussbaum, 'Nature, function, and capability: Aristotle on political distribution', *Oxford Studies in Ancient Philosophy* 6, Supp. Vol. (1988): 145–184; J. Whiting, 'Aristotle's function argument: A defense', *Ancient Philosophy* 8 (1985): 33–48.

- 6 Megone op. cit. 2000, pp. 45–6.
- 7 See Angela Hobbs, ‘Commentary on “Aristotle’s function argument and the concept of mental illness”’, *Philosophy, Psychiatry, & Psychology* 5 (1998): 209–213.
- 8 Cf. the non-Aristotelian accounts of illness given in, e.g., Boorse op. cit.; Wakefield op. cit.; Shane Nicholas Glackin, ‘Tolerance and illness: The politics of medical and psychiatric classification’, *Journal of Medicine and Philosophy* 35 (2010): 449–65; Karen Neander, ‘Mental illness, concept of’ in E. Craig (ed.) *Routledge Encyclopedia of Philosophy* (London: Routledge, 1998)
- 9 Glackin op. cit., p. 454. Consider, though, the ‘unable to fly’ case of Dennis Bergkamp, hindered by a fear of aeroplanes from playing the European fixtures his career as a professional footballer required.
- 10 Ray Aldred, ‘Blog comment #33’, *New APPS: Art, Politics, Philosophy, Science*, 6 September 2014. Online at: <http://www.newappsblog.com/2014/09/in-praise-of-ableism.html>. Accessed 12 September 2014.
- 11 See, e.g., R. Crouch, ‘Letting the deaf be Deaf: Reconsidering the use of cochlear implants in prelingually deaf children’, *Hastings Center Report* 27 (1997): 14–21; B. Tucker, ‘Deaf culture, cochlear implants, and elective disability’, *Hastings Center Report* 28 (1998): 6–14.
- 12 H. Lane, R. Hoffmeister & B. Bahan, *A Journey Into the Deaf-World* (San Diego, CA: Dawn Sign Press, 1996), pp. 410–11; for a thorough discussion of the arguments for and against this claim see Rachel Cooper, ‘Can it be a good thing to be deaf?’ *Journal of Medicine and Philosophy*, 32 (2007): 563–583.
- 13 Cooper op. cit., p. 577.
- 14 Boorse op. cit., p. 63.
- 15 Douglas C. Baynton, ‘Disability and the justification of inequality in American history’ in P.K. Longmore & L. Umansky (eds) *The New Disability History: American Perspectives* (New York: New York University Press, 2001).
- 16 There is a close parallel here with the distinction in education theory between strategies of ‘integration’ and ‘inclusion’. Thus, on the ‘integrative outlook’ a child with ADHD might be ‘treated’ or ‘corrected’ with medication so that he can sit still and pay attention in class. On the ‘inclusive’ outlook, however, it is not the child who must be modified, but the teacher, classroom, and school, so that he can learn while moving; changes are aimed not at bringing individuals into line with normality, but at adapting those features of the material, social, and cultural environment which — as in the case of deaf people — have previously hindered them from learning and participating. I am grateful to an anonymous reviewer for pointing out the analogy here.
- 17 Cooper op. cit., p. 578.
- 18 Indeed, even this way of phrasing it will strike neo-Aristotelians as separating facts and values unacceptably.
- 19 Thompson op. cit. 1995 responds (pp. 249–51) to the lectures which formed the basis of Foot op. cit. 2001, which in turn acknowledges (pp. 27–37) the foundational work provided by his paper, even inspiring her title (p. 37). Thompson, ‘Tre gradi di bontà naturale’, *Iride* 38 (2003): 191–197, is an elucidation of Foot’s monograph; while Thompson, ‘Apprehending human form’ in A. O’Hear (ed.) *Modern Moral Philosophy* (Cambridge: Cambridge University Press, 2004), pp. 47–74, recapitulates the argument of Thompson op. cit. 1995 in light of the monograph’s refinements of Foot’s views.
- 20 Philippa Foot, ‘Euthanasia’, *Philosophy and Public Affairs* 6 (1977): 85–112, p. 94.
- 21 Thompson op. cit. 2004, p. 58.
- 22 Thompson op. cit. 1995, p. 280.
- 23 Thompson op. cit. 1995, p. 267.
- 24 Aristotle, *Physics: Books I and II*, trans. W. Charlton, 2nd edn. (Oxford: Oxford University Press, 1985), Bk. 2.5.196b10ff.
- 25 Thompson op. cit. 1995, p. 284.
- 26 Foot op. cit. 2001, p. 33.
- 27 Thompson op. cit. 1995, pp. 276–7 explicitly links this formulation, coincidentally, to John Rawls, ‘Two concepts of rules’, *The Philosophical Review* 64 (1955): 3–32.
- 28 Foot op. cit. 2001, p. 27.
- 29 Foot op. cit. 2001, p. 25.
- 30 Sarah-Jane Leslie, ‘Generics articulate default generalizations’ in A. Mari (ed.) *Recherches Linguistiques de Vincennes: New Perspectives on Genericity at the Interfaces vol. 41* (Vincennes: Presses Universitaires de Vincennes, 2012), pp. 25–45, at p. 29; Sarah-Jane Leslie, ‘The original sin of cognition: Fear, prejudice and generalization’, *The Journal of Philosophy* (2013); S. Prasada, S. Khemlani, S.-J. Leslie & S. Glucksberg, ‘Conceptual distinctions amongst generics’, *Cognition* 126 3 (2013): 405–22.
- 31 For example, Larry Wright, ‘Functions’, *Philosophical Review* 82 (1973): 139–168; R.G. Millikan, ‘In defense of proper functions’, *Philosophy of Science* 56 (1989): 288–302; Karen Neander, ‘Functions as selected

- effects: The conceptual analyst's defense', *Philosophy of Science* 58 (1991): 168–184; Ernst Nagel, 'The structure of teleological explanations' in his *The Structure of Science: Problems in the Logic of Scientific Explanation* (London: Routledge and Kegan Paul, 1961), pp. 398–428; Robert Cummins, 'Functional analysis', *Journal of Philosophy* 72 (1975): 741–765. For the most comprehensive available overview of this area, see Peter McLaughlin, *What Functions Explain: Functional Explanation and Self-Reproducing Systems* (Cambridge: Cambridge University Press, 2001).
- 32 For example, Boorse op. cit. 1975; Christopher Boorse, 'Wright on functions', *Philosophical Review* 85 (1976): 70–86; Christopher Boorse 'Health as a theoretical concept', *Philosophy of Science* 44 (1977): 542–73; Justin Garson & Gualtiero Piccinini, 'Functions must be performed at appropriate rates in appropriate situations', *British Journal for the Philosophy of Science* 65 (2014): 1–20; Daniel Hausman, 'Is an overdose of Paracetamol bad for one's health?' *British Journal for the Philosophy of Science* 62 (2011): 657–68.
- 33 For example, Neander op. cit. 1998; Jerome C. Wakefield, 'The concept of mental disorder: On the boundary between biological facts and social values', *American Psychologist* 47 (1992): 373–388; Jerome C. Wakefield 'Dysfunction as a factual component of disorder', *Behaviour Research and Therapy* 41 (2003): 969–990.
- 34 Foot op. cit. 2001, pp. 31, 91. Emphasis added.
- 35 Thompson op. cit. 2004, p. 47; Thompson op. cit. 2003, p. 7. Emphasis added.
- 36 I thank Helen Beebe for this point.
- 37 Ernst Mayr, 'Typological versus population thinking' in E. Sober (ed.) *Conceptual Issues in Evolutionary Biology* (Cambridge, MA: MIT Press, 2006), pp. 325–8; Elliott Sober, 'Evolution, population thinking, and essentialism', *Philosophy of Science* 47 (1980): 350–83. For a lone dissenting voice in the contemporary literature, see Michael Devitt, 'Resurrecting biological essentialism', *Philosophy of Science* 75 (2008), 344–382; though in general, as Sarah-Jane Leslie ('Essence and natural kinds: When science meets preschooler intuition', *Oxford Studies in Epistemology* 4 (2013): ch. 5) notes, 'there is a degree of consensus among philosophers of biology (and indeed biologists) that is almost unprecedented in philosophy at large' on this issue.
- 38 The 'biological', 'phylogenetic', 'phenetic', and 'ecological' species concepts, respectively, are the leading accounts of the nature of species. See Kim Sterelny & Paul Griffiths, *Sex and Death: An Introduction to Philosophy of Biology* (Chicago, IL: University of Chicago Press, 1999), p. 193.
- 39 Charles Darwin, *The Origin of Species by Means of Natural Selection* (London: John Murray, 1859), ch. 2.
- 40 For brevity I confine the discussion here to the explanation of individual-level phenomena. Of course, the properties of groups are directly pertinent to the explanation of group-level phenomena; I thank an anonymous reviewer for pointing out this oversight.
- 41 Foot op. cit. 2001, pp. 52ff.
- 42 With all appropriate Quinean caveats; see W.V. Quine, 'Review of Milton K. Munitz, ed., *Identity and Individuation*', *Journal of Philosophy* 69 (1972): 488–497, at p. 490.
- 43 China Miéville, *The Scar* (London: Macmillan, 2002).
- 44 Miéville op. cit., p. 120.
- 45 Personal communication.
- 46 Nussbaum op. cit. 2006.
- 47 Amartya K. Sen, *Inequality Re-examined* (Cambridge, MA: Harvard University Press, 1992), p. 55.
- 48 Amartya K. Sen, 'Reason, freedom, and well-being', *Utilitas* 18 (2006): 80–96, at p. 88.
- 49 Martha Nussbaum, *Women and Human Development* (Cambridge: Cambridge University Press, 2000), ch. 2. But see also D. Bruckner, 'In defense of adaptive preferences', *Philosophical Studies* 142 (2009): 307–24.
- 50 John Rawls, *Political Liberalism*, enlarged edn. (New York: Columbia University Press, 1996), p. 21.
- 51 Nussbaum op. cit. 2006, p. 89. For defences of contractarian theories like Rawls' on this score, see Lawrence Becker, 'Reciprocity, justice, and disability', *Ethics* 116 (2005): 9–39; Anita Silvers & Leslie Pickering Francis, 'Justice through trust: Disability and the "outlier problem" in social contract theory', *Ethics* 116 (2005): 40–76; Sophia Isako Wong, 'Duties of justice to citizens with cognitive disabilities', *Metaphilosophy* 40 (2009): 382–401.
- 52 Nussbaum op. cit. 2006, p. 292.
- 53 For example, Nussbaum op. cit. 2006, pp. 15, 88, 100–1, 113, 116–9, 165, 167, 189–90, 199, 293.
- 54 Nussbaum (2006), pp. 171ff.
- 55 Nussbaum op. cit. 2006, p. 182; cf. Martha Nussbaum, 'Perfectionist liberalism and political liberalism', *Philosophy and Public Affairs* 39 (2011): 3–45.
- 56 Nussbaum op. cit. 2006, p. ix.

- 57 Nussbaum op. cit. 2006, p. 159.
- 58 Nussbaum op. cit. 2006, pp. 76–8.
- 59 Nussbaum op. cit. 2006, p. 182.
- 60 Nussbaum op. cit. 2006, pp. 182, 305; Nussbaum op. cit. 2011.
- 61 Eva Feder Kittay, ‘At the margins of moral personhood’, *Ethics* 11 (2005): 100–31, at p. 100.
- 62 Nussbaum op. cit. 2006, p. 181; cf. Martha Nussbaum ‘Aristotle on human nature and the foundations of ethics’ in J.E.J. Altham & R. Harrison (eds) *World, Mind, and Ethics* (Cambridge: Cambridge University Press, 1995), pp. 86–131, p. 94.
- 63 Nussbaum op. cit. 2006, p. 190.
- 64 Nussbaum op. cit. 2006, p. 191.
- 65 Aristotle, *On the Generation of Animals*, trans. C.J.F. Williams (Oxford: Oxford University Press, 1982), Bk.4, 767b.
- 66 Martha Nussbaum, ‘Aristotle, feminism, and needs for functioning’, *Texas Law Review* 70 (1992): 1019–28, at p. 1020.
- 67 Literally: Aristotle believed, among other things, that women possessed fewer teeth than men. See Aristotle, *Historia Animalium*, Loeb Classical Library edn. (Cambridge MA: Harvard University Press, 1965), Bk.2.3, 501b19–21.
- 68 Alasdair MacIntyre, *Whose Justice? Which Rationality?* (London: Duckworth, 1988), p. 105.
- 69 Nussbaum op. cit. 2006, p. 193.
- 70 Ian Chadband, ‘Jason Smyth the fastest paralympic runner of all time as he sets new world record to win T13 100m gold’, *The Telegraph* 1 September 2012. Online at: <http://www.telegraph.co.uk/sport/olympics/paralympic-sport/9514952/Jason-Smyth-the-fastest-Paralympic-runner-of-all-time-as-he-sets-new-world-record-to-win-T13-100m-gold.html>. Accessed 12 September 2014.
- 71 And again, many hold similarly dismissive attitudes to women’s sport.
- 72 Sandrine Berges, ‘Why women hug their chains: Wollstonecraft and adaptive preferences’, *Utilitas* 23 (2011): 72–87, at pp. 73–4.
- 73 Nussbaum op. cit. 2006, pp. 171ff.
- 74 Elizabeth Barnes, ‘Disability and adaptive preference’, *Philosophical Perspectives* 23 (2009): 1–22, at pp. 7–8.
- 75 See, e.g., Serene Khader, *Adaptive Preferences and Women’s Empowerment* (Oxford: Oxford University Press, 2011) and Lisa Fuller, ‘Knowing their own good: Preferences and liberty in global ethics’ in T. Brooks (ed.) *New Waves in Ethics* (Basingstoke: Palgrave Macmillan, 2011), pp. 210–230. I thank an anonymous reviewer for pressing me on this point.
- 76 Indeed, as Michael Bérubé playfully suggests, the best interests of the ill or disabled may on occasion be served, paradoxically, exactly by facilitating behaviour that the rest of us do *not* consider to be in their best interests; ‘we need’, he writes, ‘a theory of justice that can accommodate (to cite my very favourite essay subtitle in all of academe) the rights of people with developmental disabilities to eat too many donuts and take a nap.’ See Michael Bérubé, ‘Equality, freedom, and/or justice for all: A response to Martha Nussbaum’, *Metaphilosophy* 40 (2009): 352–65, at p. 357; D.J. Bannerman, J.B. Sheldon, J.A. Sherman & A.E. Harchik, ‘Balancing the right to habilitation with the right to personal liberties: The rights of people with developmental disabilities to eat too many doughnuts and take a nap’, *Journal of Applied Behavior Analysis* 23 (1990): 79–89.
- 77 I am greatly indebted to Helen Beebee, Paul Brady, Sam Clark, Sinéad Glackin, Brian Garvey, Sarah Hitchen, Thérèse Mac An Airchinnigh, Kate McLarnon, Séamus Mac Suibhne, George Matson-Phippard, Chris Megone, Louisa Owens, Greg Radick, and Edward Skidelsky for their various helpful discussions of these issues, as well as to the members of the Philosophy Department at the University of Lancaster and the University of Exeter Philosophy Society for the opportunity to present and discuss these ideas. My very sincere thanks also to the anonymous reviewers of an earlier draft for this journal, who provided me with comments absolutely unprecedented — in my experience — in their detail and care.