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Philosophy and Theology: Disability

Christopher Kaczor

Loyola Marymount University, Christopher.Kaczor@lmu.edu

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PHILOSOPHY AND THEOLOGY

The basic equality of all human beings is challenged by an ethics of exclusion on various fronts, not least of which is the push to exclude severely mentally disabled human beings. The topic of severe mental disability raises numerous issues of interest. This reflection explores two fundamental issues raised by severe mental disability. The first is how to properly define disability itself, and the second is the moral status of severely mentally disabled human beings.

How should we define disability? It is fairly easy to distinguish mental disability (e.g., inability to reason) from physical disability (e.g., inability to walk), but what exactly is disability itself? Unless we understand what a disability is, we will be at a disadvantage in trying to understand mental disability and its relationship to moral status. Let us consider four different accounts of disability, namely, the species norm account, the socially constructed account, the local but not global “difference maker” account, and the welfarist account

The species norm account defines disability in terms of disease. Drawing on the work of Christopher Boorse, Julian Savulescu’s account of disease involves the following elements:

1. The *reference class* is a natural class of organisms of uniform functional design; specifically, an age group of a sex of a species.
2. A *normal function* is a part or process within members of the reference class and is a statistically typical contribution by it to their individual survival and reproduction.
3. A *disease* is a type of internal state that is either an impairment of normal functional ability, that is, a reduction of one or more functional abilities below typical efficiency, or a limitation on functional ability caused by environmental agents.
4. *Health* is the absence of disease.¹

¹ Julian Savulescu, “Autonomy, Well-Being, Disease, and Disability,” *Philosophy, Psychiatry, and Psychology* 16.1 (March 2009): 61, quoting Christopher Boorse, “A Rebuttal

If we define disability in terms of Boorse's elements of disease, then a disability is an impairment of normal function with respect to one's own reference class of organisms. Among the advantages of this understanding of disability is that it is biologically and empirically based so as to facilitate objective judgments about various conditions. It is also an understanding of disability that facilitates an easy link with the goals of medicine as eliminating disease. This understanding of disability could cover both human beings and other creatures, but what would count as a disability for a human being would differ from what would count as a disability for bird. For a human being, the inability to speak at twenty years of age is a disability, though it would not be for a bird. For a bird, the inability to fly is a disability, but not for a human being.

However, defining disability in terms of the normal function of a particular species is not universally accepted. As Savulescu points out, defining disability, and thereby also mental disability, in this way would render some characteristics—such as deafness in old age—as non-disabilities because it is not a normal function of a person in advanced old age to have hearing like a younger person. Likewise, sexual dysfunction in men becomes increasingly prevalent as men age, yet this too (though not outside of the norm for the reference class of elderly men) is a kind of disability.²

Among the chief critics of the species norm understanding of disability are those who understand disability as socially constructed. Disability, according to this view, is not better or worse than typical functionality but only appears “worse” because of social conditions. The socially constructed account of disability understands the difficulties faced by disabled people as the result of the way in which society is structured. Disabled people are different from nondisabled people, but this difference becomes a difficulty, a negative, for disabled people only because of the way in which their societies are organized. Prejudice against disabled people, thoughtless construction of buildings that limit access for the handicapped, and internalized self-disregard make the lives of handicapped people much more difficult, when in fact their lives are not worse than those of nondisabled people, only different. What is considered a disability in one society may be a great advantage in another society. Consider, for example, a society in which frequent and loud noises erupt randomly and disturb the concentration of those with normal hearing. In such a society, deafness would be an advantage in terms of facilitating focus on a task at hand. Indeed, even in contemporary American society, some disabled people say that their lives are actually better than those without disabilities. Thus, for example, some deaf parents seek to ensure that their own children will also be deaf.

There is an element of truth in this account of disability. Stereotypes about disabled people, fear of those who are different, and the inconsiderate construction of buildings do indeed contribute to making the lives of disabled people more difficult. It is also true that what is disadvantageous in some circumstances becomes advantageous in others. If a cruel dictator were killing all members of your group except those who were quadriplegic, it would be advantageous to be quadriplegic.

on Health,” in *What Is Disease?*, ed. J. M. Humber and R. F. Almeder (Totowa, NJ: Humana Press, 1997), 1–135.

² *Ibid.*, 63.

Yet the socially constructed account of disability fails to take into consideration that some negative aspects of disability are not socially constructed. Consider a blind, quadriplegic woman alone on a desert island. No one is prejudiced against her; no one is making buildings that she cannot enter. Yet the blind, quadriplegic woman is not only different than she would be if she had sight and mobility, but is also at a serious disadvantage for survival. It is not simply a matter of survival in particular circumstances, however. To see and to move is good for a human being in virtue of the nature of the human body. If a mature human being lacks such abilities, he suffers a lack of due perfection in the objective physical order regardless of his subjective desires or circumstances. The goodness of a health remains good even if in some circumstances evil results from having health; the badness of disease remains bad even if good results from it in some circumstances. That good can come from evil or evil come from good does not change good into evil or evil into good. Another drawback of the socially constructed view is that, if being disabled is really not any worse than not being disabled, then there is nothing whatsoever wrong with intentionally rendering one's own healthy child deaf, blind, or limbless.

Elizabeth Barnes seeks a third definition of disability that falls between the species norm account and the social construction account. She construes disability as a local but not global difference maker.³ According to her view, disability does not render the entire life of a disabled person worse, because many disabled people are able to have a good life; indeed, all things considered, sometimes disabled people have better lives than many able-bodied persons. Advocates of the socially constructed view are right that having a disability does not necessarily make a life not worth living. Yet, although disability is not a global difference maker rendering the whole of life worse, a disability does make a negative difference with respect to a particular part of life. Therefore, all things considered, the life of a blind person may be as good as or better than the life of any particular person with sight, yet locally, the blind person's life is worse with respect to seeing things.

The distinctions drawn by Barnes seem entirely correct, yet they are not much help in defining "disability." One might make similar claims about being Jewish. Being Jewish does not mean that your life overall will be worse or better than a Gentile's life. Some circumstances, such as widespread anti-Semitism, make a Jewish life worse. These observations, while true, do not define what it means to be Jewish. Likewise, Barnes's remarks, though accurate, do not help much in the quest to define "disability"—which is precisely what the species norm account and the socially constructed account sought to do.

Savulescu offers a fourth account of disability, called the welfarist account, in which a condition counts as a disability if it is a relatively stable physical or psychological condition that tends to reduce a person's well-being. He writes, "According to a welfarist account of disability, ... a disability is a relatively stable physical or psychological condition X of person P [that] counts as a disability in circumstances C

³ Elizabeth Barnes, "Disability, Minority, and Difference," *Journal of Applied Philosophy* 26.4 (November 2009): 337–355.

if and only if X tends to reduce the amount of well-being that this person will enjoy in C This is a welfarist account of disability that relates disability to well-being.”⁴

The next question is what constitutes well-being: is it merely a subjective state, is it an objective state, or is it both? Savulescu writes, “I hold a mixed hedonistic and objective account of well-being. Well-being is in part constituted by hedonic states like pleasure and absence of pain. But it is also associated with engaging in objectively valuable activities, like gaining knowledge, developing one’s talents, having deep personal relationships, appreciating beauty, and so on.”⁵

This view is plausible and yet deficient. Gaining knowledge and having deep personal relationships are objectively worthy ends, basic human goods, but proper understanding of these goods is incompatible with thinking that pleasure as such is a part of human well-being. Savulescu rightly points out that human well-being involves “deep relationships,” yet not all deep relationships contribute equally to human well-being. A morally bad person cannot have deep personal relationships, at least not in the sense of Aristotle’s friendship of virtue. Part of what makes it impossible for vicious people to have such friendships is that they take pleasure in the wrong things: pleasure itself draws them toward evil actions. The defective character of the vicious person causes the evil end to appear good. Taking pleasure in evil activities is injurious to well-being because it both inhibits friendships of virtue and because it inhibits knowledge. A vicious man, driven by evil pleasures, is not inhibited from gaining knowledge of a theoretical kind, but is prevented from having fully practical knowledge of what is good, because this type of knowledge is gained only through good action. A bad man qua bad does not perform good actions and so cannot know them as performed. Thus, human well-being is not constituted by experiencing pleasure and a lack of pain as such. Pleasures and pains are relative to the activities that are chosen. If an activity is evil (not contributing to authentic well-being properly understood), then the pleasure derived (even if quite intense) is evil. If a chosen activity is good, then the pleasure derived from it does contribute to authentic well-being.

Disability cannot therefore be reduced to well-being, as understood in Savulescu’s sense, because although an evil man cannot experience full well-being—because he is cut off from virtuous friendships and practical knowledge of the good—not all evil agents are disabled. It is equally obvious that a morally good person might actually be disabled—for example, he may be blind, deaf, or dumb and yet virtuous.

So which of these models is correct? Arguably, the first model appears most plausible, because the only real objection to it was that the definition was under-inclusive, that is, it excluded such things as sexual dysfunction in elderly men and loss of hearing in elderly men and women. One could simply say that although such conditions do not technically count as disabilities, they are the objects of legitimate medical intervention insofar as they tend to hinder the pursuit of authentic human goods (such as friendship and procreation) and so are rightful objects of human medical intervention.

⁴ Savulescu, “Autonomy, Well-Being, Disease, and Disability,” 64.

⁵ *Ibid.*

Having considered the nature of disability, now let us consider the second question: what is the moral status of severely mentally disabled human beings? Two conclusions to this question are available: the ethics of exclusion and the ethics of inclusion. The ethics of exclusion, borrowing Eva Feder Kittay's apt phrase, holds that human beings with severe mental disability do not have basic human rights and need not be treated with respect. Scholars proposing an ethics of inclusion hold that all human beings, no matter how severe their mental disabilities, have equal basic moral status with all other human beings.

Defenders of the ethics of exclusion propose diverse justifications for it. A Kantian justification focuses on the lack of autonomy of the severely mentally disabled. Without endorsing it, Licia Carlson and Kittay describe this approach: "The view that those with cognitive impairments are not subject to the same basic rights and protections may also be inferred in Kant's philosophy. Kant is generally taken to be the locus situ of the intimate connection between personhood, dignity and autonomy. He writes: 'Autonomy then is the basis of the dignity of human and of every rational nature.'⁶ Autonomy—the self-given law of practical reason—is vitally important for Kant because without it, a person cannot achieve the one thing that is worthwhile without qualification for Kant: namely, the good will. But it does not follow from this that those human beings who cannot choose autonomously at any particular moment in their lives or even for the whole of their lives lack a rational nature or do not have dignity in the sense of basic moral worth. Indeed, such a view is at odds with what Kant says in *The Metaphysics of Morals*: "A human being is under obligation to regard himself, as well as every other human being [*als auch jeden anderen Menschen*], as his end."⁷ Kant scholar Patrick Kain points out, "There is substantial textual evidence indicating Kant's judgment about human moral status: all human beings possess moral status."⁸ Kain emphasizes that Kant's own theory is inclusive rather than exclusive with respect to human beings:

Within Kant's theory, existence as a living member of the human species is taken as a sufficient indication of basic moral status because membership in that species indicates the presence, in a perceptible being, of the status-grounding predisposition to personality. Since, according to Kant's Formula of Humanity, it is impermissible to treat any being with dignity as a mere means, Kant's position entails that it is impermissible to fail to treat any human organism as an end-in-itself, which seems to entail a strong, though defeasible, presumption against, for example, the intentional killing of any human organism at any stage of its development.⁹

⁶ Licia Carlson and Eva Feder Kittay, "Introduction: Rethinking Philosophical Presuppositions in Light of Cognitive Disability," *Metaphilosophy* 40.3–4 (July 2009): 310.

⁷ Immanuel Kant, *The Metaphysics of Morals* [*Die Metaphysik der Sitten in zwei Teilen*], 1797, quoted and translated by Patrick Kain in "Kant's Defense of Human Moral Status," *Journal of the History of Philosophy* 47.1 (2009): 63.

⁸ Kain, "Kant's Defense of Human Moral Status," 62.

⁹ *Ibid.*, 100.

Kant did not advocate an ethics of exclusion. Unless we are willing to deprive a human being in a temporary coma of rights, we should reject actual autonomy as a necessary condition for basic rights.

Other defenders of the ethics of exclusion appeal to certain threshold properties. It is implausible to exclude from full moral consideration human beings with any mental disability whatsoever, such as a touch of Asperger syndrome. On the other hand, advocates of the ethics of exclusion want to exclude some human beings from being counted as having moral worth equal to that of nondisabled human beings. Between the mildest of mental disabilities and the most severe, there are innumerable degrees of subtle difference. So the ethics of exclusion demands that a line be drawn at some point, making use of some threshold of a degreed characteristic, such as mental disability.

Advocates of exclusion disagree about which degreed characteristic grants moral worth. Once an individual has a particular degree of intelligence, or a particular degree of the ability to communicate, or a particular degree of psychological connectedness to past, present, and future selves, then an individual gains moral inviolability. For Jeff McMahan, for example, if an individual lacks autonomy and therefore does not merit respect, the badness of death (and therefore the wrongfulness of killing) hinges on the degree of the psychological connectedness of the individual's future and past selves.¹⁰ So if an individual has a strong psychological connectedness to future and past selves (like, for example, a human being with less-than-severe mental disability), then killing is impermissible. On the other hand, if an individual does not have a strong psychological connection to future and past selves (such as a severely mentally handicapped woman or man), then he or she is not morally inviolable and may permissibly be intentionally killed.

According to McMahan, at some point along the spectrum it becomes wrong to kill particular mentally disabled individuals. So let's say one human adult, Jake, has just barely reached this point on the spectrum, but another human adult, Imani, is just barely shy of this point on the spectrum. Jake just barely meets the threshold of psychological connectedness, so he should not be killed. Imani just barely falls short of the threshold of psychological connectedness, so she may be killed. This is arbitrary. Miniscule differences in psychological properties cannot justify radical differences in treatment, like the difference between permissible and impermissible killing. Any proposal that the right to live depends on a degreed property will be similarly arbitrary.

I believe that all severely mentally handicapped human beings have equal basic moral status because all human beings have equal basic moral status.¹¹ To be human is to be endowed with human rights. McMahan rejects this view, noting, "It would be odd, however, to suppose that to determine their moral status we would need to determine their species membership—that is, that the question of their moral status

¹⁰ Jeff McMahan, *The Ethics of Killing: Problems at the Margins of Life* (Oxford: Oxford University Press, 2002), 276.

¹¹ For one justification, see S. Matthew Liao, "The Basis of Human Moral Status," *Journal of Moral Philosophy* 7.2 (2010): 159–179.

could be answered only with the assistance of a biologist.”¹² But a similar objection may be lodged against McMahan and other defenders of the ethics of exclusion. For McMahan, psychological capacities determine the moral status of individuals. It would be odd to suppose that the question of their moral status could be answered only with the assistance of a psychologist. Indeed, the difficulties for the ethics of exclusion are compounded. While a biologist can easily determine the species of a particular organism, it is much more difficult for a psychologist to determine whether a particular human being has just reached or barely fallen shy of a particular threshold of some degreed quality like psychological connectedness, self-awareness, or rationality. For such reasons, the ethics of exclusion should be rejected in favor of an ethics of inclusion that secures equality of basic rights for all human beings.

CHRISTOPHER KACZOR

¹² Jeff McMahan, “Cognitive Disability and Cognitive Enhancement,” *Metaphilosophy* 40.3–4 (July 2009): 601.