

Justice and Human Capabilities

Reading:

Martha Nussbaum, "Human Capabilities, Female Human Beings." *TF*.

Amartya Sen, "More than 100 Million Women are Missing." *TF*.

Screening: Nussbaum section of *Examined Life*

1. Background Issues

- What is an individual morally entitled to in their pursuit of a good life among others, given that there are limited resources?
- How should a just society be organized? In particular, how can a society best enable its members to flourish, compatible with justice for all?

2. Social contract theory

Social contract theorists argue that our moral and political obligations to each other can be best understood in terms of what we could all reasonably agree to upon setting up a society together. John Rawls who wrote *A Theory of Justice* (1971) is a contemporary social contract theorist.¹ He claims:

- A just society is fair.
- A test of a fair distribution is whether everyone could reasonably consent to it.
- People should reasonably consent to an arrangement that is mutually advantageous.
- The best way to come up with a mutually advantageous arrangement is to be impartial.
- Impartiality is best achieved through abstracting away from or bracketing our particular differences.
Idea: ignorance is a good tool for achieving impartiality.
Example: dividing a pizza. If I don't know which slice I'm getting, I'll divide it evenly.

Rawls calls the framework of supposed ignorance from which we are to decide on the principles of justice, the "original position." In the original position we don't know what our society is like because we want to be impartial across cultures, and across generations; we don't know what our individual natural talents or social advantages are, because we don't want to skew the society to favor those who just happen to be lucky to be born to rich parents or with special talents; we don't know our religion or fundamental conception of the good because we want our social framework to be tolerant of the full range of conceptions of the good. Rawls argues that from this "original position," it would be rational to (a) be concerned most with the distribution of what he calls "primary goods," i.e., goods that would be good for you regardless of what else you value, e.g., basic liberties, health, money, opportunity, and (b) to decide that primary goods should be distributed according to two principles:

The liberty principle: "Each person is to have an equal right to the most extensive basic liberty compatible with a similar liberty for others."

The maximin principle (or in Rawls' terms: the Difference Principle): Social and economic inequalities are permissible only to the extent that they advantage the least well-off.

II. Capabilities Approach

On Nussbaum's view, social contract theory presupposed that we those joining together to create a society were all able-bodied white men. The principles considered the basis for a just society reflect that. But this is not realistic. A just society should not be constructed around the idea that we are each concerned to maximize the benefit of cooperation, i.e., for mutual advantage. We organize ourselves into societies for love and relatedness.

¹ Historically, other important social contract theorists include: Thomas Hobbes (1651), John Locke (1689), Jean-Jacques Rousseau (1762).

A just society must not only be fair, but must be concerned with human dignity. Human dignity requires that we all reach a threshold of functioning along 10 different axes (124):

- Bodily health
- Bodily integrity
- Development of the senses, imagination, thought
- Development of practical reasoning
- Development of affiliations (friendships etc)
- Development of ability to play
- Development of relations with animals and nature
- Development of emotional capabilities
- Control over property
- Control over one's workplace and labor

She says,

...the list is composed of two different sorts of items; limits and capabilities. As far as capabilities go, to call them parts of humanness is to make a very basic sort of evaluation. It is to say that a life without them would be too lacking, too impoverished, to be human at all. Obviously, then, it could not be a good human life. So this list of capabilities is a ground-floor or minimal conception of the good. (132)

With the limits, things are more complicated. In selecting the limits for attention, we have, once again, made a basic sort of evaluation, saying that these things are so important that life would not be human without them. But what we have said is that a human life, in its general form, consists of the awareness of these limits plus a struggle against them. On the other hand, we cannot assume that the correct evaluative conclusion to draw is that we should try as hard as possible to get rid of the limit altogether. (132)

The project then is to describe two thresholds. The first sets a bare minimum for a "human life," the second for a "good human life." (133) (The list of conditions is on p. 134) Public policy should aim to enable people to provide what is needed to develop the capacities to reach the second threshold – a good human life. She suggests that "properly fleshed out, [achieving] the second threshold would be incompatible with systematic subordination of one group to another." (135) She suggests, moreover, that women's "unequal failure in capability" is a problem of justice. (138)

Questions:

1. Nussbaum describes her project as "frankly universalist and 'essentialist'." What does she mean by this?
2. Nussbaum discusses four common criticisms of universalizing projects:
 - a) that they entail metaphysical realism
 - b) that they neglect historical and cultural differences
 - c) that they negate human autonomy
 - d) that they result in prejudicial applications.

Does Nussbaum's view address them adequately?

[3. Is Nussbaum's approach actually incompatible with a social contract approach? How? Why?]

4. What do you think of Nussbaum's list of "Basic Human Functional Capabilities"? Does Wendell's discussion of disability suggest problems for Nussbaum's list?

5. In what sense can this piece by Nussbaum be read as an example of sameness/humanist feminist thinking? Is it an adequate normative basis for feminist politics, i.e., would any society that provided the capabilities she outlines eliminate sexism?

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