Human Capabilities, Religion, and Rights

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HUMAN CAPABILITIES, RELIGION, AND RIGHTS

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This dissertation examines whether a commitment to human rights is cogent apart from a religious view of life. I identify three distinctive religious criticisms of secular conceptions of human rights, from ultimate meaning, dignity, and comprehensive good, illustrating each through the work of a prominent author, Michael J. Perry, Nicholas Wolterstorff, and Alasdair MacIntyre. The criticism from ultimate meaning focuses on assessing enduring goods and universal solidarity, from dignity on distinct and equal human worth in relation to other species, and from comprehensive good on holistic flourishing, shared reasons, and sources of obligation. I grapple with these criticisms by drawing on the capabilities approach that has gained ascendancy in human rights theory and policy, most notably in the United Nations Development Program and its annual Human Development Reports. I appraise the approach through the work of social philosopher Martha C. Nussbaum. At each point of the inquiry, I discuss the approach’s limits and possibilities and suggest what both religious and secular critics could learn about upholding and evaluating human rights. As the discussion progresses, it becomes clear that whether human rights are plausible on secular grounds or inescapably religious entails several complex claims that admit no single, simple resolution.
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INTRODUCTION: HUMAN RIGHTS, SECULAR GROUNDS, RELIGIOUS SKEPTICISMS

“Destroy a man’s belief in immortality and not only will his ability to love wither away within him but, along with it, the force that impels him to continue his existence on earth. Moreover, nothing would be immoral then, everything would be permitted, even cannibalism…. For every individual… who does not believe in God or immortality, the natural moral law immediately becomes the opposite of religious law and that absolute egotism, even carried to the extent of crime, must not only be tolerated but even recognized as the wisest and perhaps the noblest course.”

These words by Dostoevsky’s Ivan Karamazov convey the conviction of many a person. Yet they are too sweeping to be true. Egoism and crime are neither wise nor noble by nature, regardless of belief in divine or eternal life. Human beings are impelled to live, love, seek virtue and shun vice for a variety of reasons other than serving God or securing beatitude—to woo and grow old with a beloved, attain and engage excellence in a vocation, ensure prosperity for progeny, preserve memory in posterity, maintain harmony and reciprocity in a neighborhood or nation, protect comrades and country on a battlefield, keep order and loyalty in a mafia ring. Human life is too full of mixed and competing drives to be reduced to self-love and evil or selflessness and good. This does not mean religion does not matter to morality. The question is, which morality, and in what ways does it matter? To be sure, a Buddhist hermit ensconced in a cave relies on religious belief to maintain her meditative and ascetic discipline, as does a Catholic monk devoted to spreading the gospel in an

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orphanage. Both would also draw on their spiritual practice to help a stranger, though they may further see, and encourage others to seek, meaning in such help even apart from this practice. Certainly, few persons, whether believers or unbelievers, would view as meaningless or unnatural the morals of a child seeking nurture from parents, an apprentice mastering expertise, a citizen advocating public goods such as peace and a fair hearing.

Gaining insight on how religious belief grounds and shapes ethical norms and whether some of them are unintelligible and unwarranted apart from it requires focusing on specific ethical outlooks and values. One ethics stands out in popular appeal and political influence in modern times and presents a compelling case study in this regard—the ethics of human rights. Entering international law and policy after the Second World War, the International Bill of Human Rights\(^3\) is embodied in three documents: the Universal Declaration of Human Rights (1948), the International Covenant on Civil and Political Rights (1966), and the International Covenant on Economic, Social, and Cultural Rights (1966). The documents’ central affirmation is that all human beings have “inherent dignity” and “equal and inalienable rights” as part of the “human family.” We are to treat everyone “in a spirit of brotherhood” as moral equals irrespective of their social and physical affinity. The rights are conceived as the foundation of just order and security in the world and bear on human relationships in various spheres of life, family, business, culture, religion, polity. All governments, social institutions, and individuals are urged to observe and promote the rights in law, policy, and education. Most states ratify human rights covenants and treaties, many international organizations monitor compliance with their articles across the globe,

\[^3\text{The Universal Bill of Human Rights encompassing all three documents can be accessed here, https://www.escr-net.org/resources/international-bill-human-rights.}\]
some, including courts, adjudicate their binding legal ramifications, numerous others collaborate on projects advancing their non-binding norms and goals. Countless persons and communities seek protection in and benefit from these collective efforts. In the name of human rights, we relieve humanitarian crises, prosecute war crimes and political repressions, seek truth and justice in national reconciliation processes, reach peace agreements, contain environmental disasters, advance global health, education, fair labor and living standards, freedom of conscience, gender and racial equality, and many other shared goods. There are doubts about whether we do all this effectively and make progress, yet the language of human rights still resonates across the globe and no other moral ideal has yet won as much power to compel accountability and cooperation between nations. Assessing whether the central ideas underpinning human rights ethics are cogent apart from a religious view of life is the purpose of this work.

The concept of human rights has a long and complex history. Keen debates unfold about its origins and influences on current political thought and international law and

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5 Jurgen Habermas on the primacy of human rights discourse: “Notwithstanding their European origins, human rights now compose the universal language in which global commercial relationships come under normative regulation. In Asia, Africa, and South America, they also constitute the only language in which the opponents and victims of murderous regimes and civil wars can raise their voices against violence, repression, and persecution, against injuries to their human dignity.” Jurgen Habermas, Religion and Rationality: Essays on Reason, God, and Modernity, ed. Eduardo Mendieta (Cambridge, MA: MIT Press, 2002), 153-154.
policy. Some stress religious sources,⁶ others secular,⁷ and still others contest or qualify the connection between earlier and modern views of rights.⁸ We will not wade into these historical discussions. Many ideas and values enter human history in one tradition and thrive in others. Democracy first gained prestige in polytheistic Athens but multiplied and was refined in varied secular and monotheistic cultures. Our goal is to evaluate the

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⁸ Samuel Moyn, *The Last Utopia; Human Rights in History* (Cambridge, MA: Belknap, 2012). Some recognize the importance of both religious and secular contributions to human rights. Charles Taylor argues that, while human rights have religious sources, they have expanded their universality via confrontation with secular forms of life and thought: “[M]odern liberal political culture is characterized by an affirmation of universal human rights—to life, freedom, citizenship, self-realization—which are seen as radically unconditional; that is, they are not dependent on such things as gender, cultural belonging, civilizational development, or religious allegiance, which always limited them in the past. As long as we were living within the terms of Christendom—that is, of a civilization where the structures, institutions, and culture were all supposed to reflect the Christian nature of the society (even in the nondenominational form in which this was understood in the early United States)—we could never have attained this radical unconditionality. It is difficult for a ‘Christian’ society, in this sense, to accept full equality of rights for atheists, for people of a quite alien religion, or for those who violate what seems to be the Christian moral code (e.g., homosexuals).” *A Catholic Modernity?* (Oxford: Oxford University Press, 1999), 16-17; also 26.
normative status of human rights, whether it is fully coherent without religious beliefs and virtues. We will examine religious skepticism about secular conceptions of human rights. This skepticism varies in its themes and aims but can be construed around three distinctive lines of criticism.

To begin with, religious critics argue that human rights ethics makes sense only against the background of metaphysical realism and that a religious outlook insisting on life's ultimate meaning offers its most persuasive rendering. From a religious standpoint, ethical claims can obligate and persuade only if they are seen as aiming at objective, inescapable features of a purposive world. Contemporary secular theories of human rights are taken to be either hostile or indifferent to metaphysical realism. Abstracting from questions about cosmic order, they ground moral truth in practical reason, social consensus, or pragmatic utility. As a result, they are thought to struggle with accounting for the enduring, universal, and inalienable status of rights, the idea that rights cannot be renegotiated depending on the currency of sensibilities or urgency of needs in a given setting and situation, or that some norms the rights entail could be true even if no one recognized them or false even if everyone affirmed them. Robust moral commitments, the critics insist, make sense only if moral experience is viewed as real and rooted in a harmonious, benevolent universe. A devotion to human rights across borders and circumstances is hollow in a cosmos whose order is, at bottom, deemed absurd and random. A secularist is viewed to have particular trouble with justifying the intrinsic worth of other-regarding choices, especially when they lead to facing profound loss and adversity. For a person of faith, only a providential view of the world can illuminate how altruism and sacrifice can be part of human fulfillment.
Further, religious critics question secular affirmations of human dignity. Human rights are premised on the idea that every person has the same unique moral worth, that some things should be avoided and others guaranteed for all people in all relevant contexts. In a religious view, secularists cannot explain what feature of human agency merits this worth, a feature that all human beings would share equally and distinctly from other terrestrials. A secular outlook, the critics contend, can only make sense of partial, contextual moral regard limited to the reciprocities of kin, friendship, profession or nation; it cannot substantiate impartial, inviolable regard for people standing outside the circle of reciprocal familiarity and benefit, such as the least deserving or able, the worst of the worst, the farthest out of sight, or those whose capacities seem the same as or inferior to the capacities of nonhuman animals. From a religious perspective, only a transcendent view of human nature and stature can warrant unequivocal respect for all human life, and in ways distinguishable from moral concern for other sentient beings.

Another religious critique focuses on the comprehensive good: human rights obligations are intelligible only if they are upheld within a holistic account of goods necessary for communal and individual flourishing. This account outlines practices and virtues required to shape moral character and social institutions toward common good. In so doing, it clarifies not only how specific human rights can help sustain social order and prevent suffering—something secular theories can do, too, through pragmatic considerations—but also how their advocacy could be integral to someone’s core identity and way of life. The account also provides shared reasons or criteria for assessing human rights in relation to each other, as well as other components of both moral and non-moral life; otherwise, human rights are impossible to evaluate when they clash or entail
disagreement about their applicability and implementation. Secular articulations of human rights eschew weighing in on overarching ideas of value and human good in order to respect different cultures and ideologies; as such, they are taken to lack conceptual and emotive resources to adjudicate moral disputes and summon devotion toward communal welfare.

These lines of criticism intersect, and sometimes run together, yet each is compelling in itself to merit its own scrutiny. Each one allows to examine what is at stake in espousing human rights norms from a distinct interpretive lens. In this project, we will discuss each criticism through a prominent religious author, Michael, J. Perry, Nicholas Wolterstorff, and Alasdair MacIntyre. We will also consider an influential secular account of rights called the capabilities approach that has gained ascendancy in human rights theory and policy, most notably in the United Nations Development Program and its annual Human Development Reports.9 We will appraise this approach through the work of social philosopher Martha C. Nussbaum. What capabilities? Why capabilities? Continue reading to find out, and keep an open mind about what will be argued in each part of the discussion and in the end. As the discussion progresses, it will become clear that whether human rights are plausible on secular grounds or inescapably religious entails several complex claims that admit no single, simple resolution. We will highlight in each religious criticism salient issues and affirmations about human rights and examine how they can be construed within the capabilities approach. At each point of the inquiry, we will assess the approach's

limits and possibilities and suggest what both religious and secular critics could learn about upholding and evaluating human rights.

**Ultimate Meaning**

Religious ethics rests on the conviction that morality is rooted in metaphysics or cosmology, that what one ought to do should be anchored in how things really are. In a religious worldview, fundamental moral norms are not forged by personal choice or communal agreement; they are seen as pointing to truths that are bound with the world and thus must be recognized or discovered. Ethical inquiry is about attuning to the true nature of reality and discerning what it entails for everyday dispositions and practices. A believer sees the universe as, at bottom, hospitable, rather than indifferent or hostile, to humanity. Whatever incongruity, conflict or tragedy is encountered in daily experience, all can have meaning and purpose from the standpoint of transcendence. Many religious misgivings about secular ethics arise from this conviction. A religious critic is wary of any secular stance abstracting the normativity and content of ethical claims from the inquiry into cosmic origins and purposes. Secular conceptions of human rights are no exception and are often found wanting precisely because of aloofness and occasional aversion to metaphysical groundings. Human rights demand life-defining, nonnegotiable moral

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obligations that are possible from a religious viewpoint only in a universe bound by benevolent order. If the experienced conditions of the world are structurally haphazard and arbitrary, staking your life on the universal morality of human rights can, at best, be an aesthetic preference, not a binding commitment. In contemporary thought, this theme has been passionately pursued by legal theorist Michael J. Perry.

The ethics of human rights, Perry says, sets a very high moral standard. He draws attention to the language of “inherent dignity” and “equal and inalienable rights” that all persons possess as “members of the human family” and should protect in a “spirit of brotherhood.” Perry underlines the inherent moral value of all human life in this affirmation: every person is inviolable and deserves special regard for what is both guaranteed and forbidden in social conduct. While recognizing that the documents’ authors deliberately avoided religious rhetoric to widen the reach of persuasion, Perry cannot help interpreting this affirmation as “ineliminably religious.” His overall argument against secular conceptions of human rights is multilayered but can be distilled to the following: secularists struggle coming to terms with two claims, that human rights are part


12 “There is something about each and every human being, simply as a human being, such that certain choices should be made and certain other choices rejected; in particular, certain things ought not to be done to any human being and certain other things ought to be done for every human being.” Perry, The Idea of Human Rights, 13; Also Toward a Theory of Human Rights, 5-6; The Political Morality of Liberal Democracy (New York: Cambridge University Press, 2010), 15-17; A Global Political Morality, 28.

of a meaningful cosmic order and that they demand universal solidarity; only a religious outlook can explain how there can be enduring norms that everyone has to honor with other-regarding concern for all others’ welfare.

Historical communities, Perry observes, have always understood their moralities in a cosmological context. Their reasons for prescribing moral behavior are inseparable from their beliefs about the world and human beings’ relationship to it. Moral rules and practices are ascertained in view of the basic facts about the nature of the universe and human existence. Knowing what is ethically fitting calls for exploring what makes the cosmos and humanity tick, what realities we confront in our experience and what they demand of us. A religious cosmology differs from nonreligious for Perry by insisting that the universe is “ultimately meaningful” rather than “absurd.” The problem of life’s meaning looms large when wrestling either with life’s limits—frailty and mortality—or with life’s evils—injustice and suffering. These experiences of existential angst can lead to radical doubt and alienation from the world, with the human plight deemed a pointless farce. Life’s limits and evils are real, doubt and alienation are profound, and yet for religious persons, Perry muses, there remains a real sense of the “ultimately meaningful nature of the world and of our place in it,” “meaningful in a way hospitable to our deepest yearnings”—a sense grounded in a “vision of final and radical reconciliation.”

Without a religious affirmation of life’s meaning, a human rights commitment to the inherent value of each human being as a member of the universal family is, in Perry’s

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judgment, unintelligible. He sketches a religious grounding for this commitment to show the character of its normativity, and draws on the tradition he knows best, Christianity. Why is a Christian devoted to all human beings as ends in themselves? A Christian sees every person as “a beloved child of God and a sister/brother to every other human being.”

God created humanity for agape, a selfless love that summons linking others' wellbeing with one’s own. Agape reveals to humanity the most fitting and rewarding way of life, in imitation of God’s own nature. By following agape’s counsels, persons enact their created design. Agape is impartial and all-inclusive; it reaches out to everyone, the weak, the outcast, the unfamiliar. Christians are urged to love even their adversaries and the most malevolent villains. Toward what destiny does agape lead humanity? Toward “mystical union, in love, with God and with one another [that] can be neither fully achieved nor even fully understood in our earthly life.”

A religious cosmology thus furnishes a purposive and auspicious order for human flourishing against which all other life patterns are evaluated. If the universe had no providential bent, on Perry's account, the ideal that everyone is to “pursue the good of others as an end in itself” or, at least, “not act contrary to [that] good” would be incomprehensible. Nietzsche, Perry remarks, was first to articulate incisively the

17 Perry, Toward A Theory of Human Rights, 8.
18 Perry emphasizes that agapic regard is not distinctively Christian: “The term ‘agape’ is widely used in Christian ethics, but the agapic sensibility is not sectarian. The sensibility could just as fittingly be called by other names, including non-Western names, such as, for example, ‘karunic,’ deriving from the Buddhist term for compassion: karuna. The agapic sensibility is ecumenical.” A Public Morality, 38.
19 Perry, Toward A Theory of Human Rights, 8-12.
21 Perry, Toward A Theory of Human Rights, 22.
implications of a life stripped of religious foundations: “The masses blink and say: ‘We are all equal. – Man is but man, before God – we are all equal.’ Before God! But now this God has died.” For Nietzsche, the loss of religious metaphysics meant the dissolution of morality in the traditional objective, realist sense. “Naivete: as if morality could survive when the God who sanctions it is missing! The ‘beyond’ is absolutely necessary if faith in morality is to be maintained.” Perry does not speculate what type of, or if any, morality might be conceived as normative in a godless universe, but he is certain that it is not the human rights ethics of universal fellowship. You cannot treat every person as your family in an alienated, aimless world beyond an “aesthetic preference.”

What if human rights are advocated only as a human creation? Perry considers Richard Rorty’s call to scrap issues of realism and foundational theory in human rights advocacy. Rorty suggests promoting human rights as an historical ideal of Western European and North American culture and converting others to the cause by tweaking their sentiments through poignant stories of suffering. This kind of advocacy falls far short of most people’s moral sensibilities, in Perry’s view. For most of us, human rights violations offend more than our preferences; they assail the fundamental order of life. Crimes against humanity do not reside only in our mental states and local customs. We would insist on their wrongness even if everyone happened to live in a society that believed otherwise. We would not be content with Rorty’s hardboiled cultural perspectivism

22 Ibid., 22.
23 Ibid., 24.
epitomized in these notorious sentences: "When the secret police come, when the torturers violate the innocent, there is nothing to be said to them of the form 'There is something within you which you are betraying. Though you embody the practices of a totalitarian society which will endure forever, there is something beyond those practices which condemns you.'" According to Perry, if there was no condemnation from beyond ourselves, we would feel unsettled coercing and, if dire need be, risking our own and others' lives under the aegis of human rights protection. In such circumstances, we believe our might should rest on objective right.

Pragmatic, self-regarding arguments for the normativity of human rights are also insufficient, argues Perry. We may be persuaded that a culture supporting human rights is on the whole better than the alternatives for securing basic life goods, and we might even recognize that defending these rights on behalf of distant communities in need can help assure our own long-term material flourishing. Yet these cost-and-benefit calculations are too precarious to foster deep-seated obligations to others; they speculate on unpredictable, proof-resistant outcomes and shortchange the "passionate other-regarding character" of human rights discourse. No secular view can make sense of this other-regarding character because ultimately, Perry appears to claim, it cannot be made fully reasonable from within the immanent sense of the world, with life viewed as absurd. Secularists offer

\[\text{\textsuperscript{27} Ibid., 39.}\]
\[\text{\textsuperscript{28} Ibid.}\]
\[\text{\textsuperscript{29} Ibid., 34.}\]
\[\text{\textsuperscript{30} Ibid., 32; 32-35.}\]
no conclusive arguments to reject egoism as irrational\textsuperscript{31} or to privilege impartial empathy\textsuperscript{32} and rationalist regard for reciprocity.\textsuperscript{33} Perry dismisses secular arguments on these scores by observing, among other things, that many people are not interested in being selfless, empathetic, or rational and lead relatively satisfying lives within the evaluative limits of their environment.\textsuperscript{34} His dismissals seem premised on the plain observation that life does not always mete out punishing lessons for immoral lifestyles and that moral conduct does not always pay off in the currency of material welfare, as other-regarding virtues may exact profound hardships. At bottom, Perry's reasoning is shaped by this conviction: human rights obligations call for a view of self-expending fulfillment that could make sense only against life's transcendent meaning, only if this fulfillment is seen as scripted into the cosmic architecture of human origins and destiny.\textsuperscript{35}

Perry ponders the possibility of espousing agape as part of a serendipitous heritage of contingent evolution.\textsuperscript{36} Loving the other as yourself is, indeed, constitutive of utmost human fulfillment, but the ideal is buttressed by no metaphysical design or final ontological

\textsuperscript{31} Perry, \textit{Toward A Theory of Human Rights}, 19.

\textsuperscript{32} Ibid., 22-23.

\textsuperscript{33} Ibid., 19.

\textsuperscript{34} Ibid., 22-23.

\textsuperscript{35} That conviction is highlighted in Tolstoy's quote Perry appends in the very beginning of his chapter on non-religious grounds for human rights in \textit{Toward A Theory of Human Rights}, p. 14: "Attempts to found a morality outside religion are similar to what children do when, wishing to replant something they like, they tear it out without the roots and plant it, rootless, in the soil....[R]eligion is a particular relationship that man establishes between his own separate personality and the infinite universe, or its origin. And morality is the permanent guide to life that follows from this relationship." Leo Tolstoy, \textit{A Confession and Other Religious Writings}, translated by Jane Kentish, (New York: Penguin Classics, 1987), 150.

\textsuperscript{36} Ibid., 23-25; Perry, \textit{A Global Political Morality}, 37-39.
unity; it is a result of random evolutionary forces with no assurance of its ultimate meaning or triumph. This form of espousal seems “ad hoc,” “contrived,” and “too good to be true” to Perry.\(^{37}\) Such a radical moral stance seems artificial alongside metaphysical nihilism or agnosticism. To be sure, our socioemotional constitution may privilege affectionate cooperation with likeminded and friendly persons, but if the experienced order is presumed arbitrary, our lives cannot vouch for the supremacy of extending that cooperation to everyone, let alone expanding it to resolute altruism.\(^ {38}\) If you insist on viewing this stance as inescapable for your existence, as an axiom that gives your life-orienting commitments their fundamental sense and worth—Perry uses Wittgenstein’s image of “I have reached bedrock and this is where my spade is turned”\(^ {39}\)—the question persists: What else must be true about the world for that conviction to feel so inescapable?\(^ {40}\) For Perry, the answer is unequivocal: self-expenditure is coherent only if life’s fragmented character has providential significance.\(^ {41}\)


\(^{38}\) Ibid., 25.

\(^{39}\) Ibid., 29.

\(^{40}\) Ibid.

\(^{41}\) In his most recent work, A Global Political Morality (2017), where Perry is a little less combative about secular grounds for human rights, he appears more appreciative of nontheistic affirmations of agape, though on his view it is still an instance of “post-hoc rationalization.” (Perry, A Global Political Morality, 39.) He writes: “The agapic sensibility – the agapic orientation to the Other – provides, I am increasingly inclined to think, the deepest nontheistic explanation for why many embrace – why many live their lives, or aspire to live their lives, in accord with – the ‘in a spirit of brotherhood’ imperative. And perhaps, even for many theists, the deepest explanation: To repeat, many who once were theists but are no longer theists remain well and comfortably within the grip of the agapic sensibility.” Ibid., 40.
**Human Dignity**

What many a religious critic finds inexplicable in secularist accounts of human rights is the idea of dignity. At the most basic level, dignity points to the inestimable moral worth of all human life. Every human being is a subject of equal and categorical moral respect that no material interest outside the framework of justice can engulf. For a religious critic there needs to be some quality or attribute of human life that would ground this worth and explain why it should reign supreme in all morally relevant circumstances, especially when some pressing public needs are pitted against the rights of persons deemed on the periphery of moral respect, for example, atrocious criminals or severely disabled. Nicholas Wolterstorff offers the most extensive dignity-centered critique of secular human rights ethics.

Wolterstorff’s conception of human rights is nestled within his account of justice. Rights, for him, are fundamental to justice because they bring into sharp relief the person as a recipient, rather than only an agent, of moral action. Rights focus on the dues owed someone and the wrongs someone can suffer, rather than on the obligations imperative for exercising moral agency. Refracted through the lens of rights, justice has two dimensions. First, justice seeks to bring about states and events in our life that add up to our flourishing—the goods of our material welfare. Second, and more importantly, justice aims at giving proper respect for our worth—the goods of our moral dignity as human beings. These two dimensions are interrelated, but the latter always trumps the former: life goods are vital to justice and rights, but they are always subordinate to and conditioned by human being goods. We are more than our states and events; our life entails a substantive wholeness commanding irreducibly non-instrumental integrity. We demand a type of
moral respect that cannot be overridden by material interests, whether individual or collective.\textsuperscript{42}

Non-instrumental human worth is thus what lies at the core of justice conceived through the language of rights, for Wolterstorff. And this worth must be understood as inherent to personhood, rather than as a social construct; all human beings possess it by virtue of being human, irrespective of whether society recognizes and legitimates this worth.\textsuperscript{43} What can account for this worth? Wolterstorff notes that worth always stems from some feature of life; it does not arise in a vacuum. For example, worth can be specific to a particular property or action imbued with some excellence or obligation which need to be honored. The feature required for deriving non-instrumental human worth needs to be such that it belongs to all, not just some, persons and places their moral status far above of any other non-human animal. People should retain this feature in all morally significant circumstances so that, no matter how dire their plight may be, their worth would still be distinct from and greater than that of other earthlings.\textsuperscript{44}

Can secularists substantiate this kind of worth in a way adequate for grounding human rights? Wolterstorff observes that the most common strategy is to trace human rights to the idea of dignity based on some capacity unique to humanity. Kant’s work has been most influential for secular thought on the subject. What sets human beings apart from other creatures for Kant is the capacity for rational self-realization, which involves

\begin{flushright}
\textsuperscript{43} Ibid., 316-319.
\textsuperscript{44} Ibid., 321.
\end{flushright}
not only choosing and fulfilling personal goals but also conceiving and synthesizing them with the goals of other rational agents. What distinguishes the human self is the capacity to treat others as subjects with their own purposes, rather than as mere instruments for one’s agenda.\textsuperscript{45} Wolterstorff is dubious about this strategy because not all human beings have such keen rational awareness, not infants, severely mentally impaired adults, irreversibly comatose, or Alzheimer’s patients. Efforts to redefine rational agency so as to include such persons are of no help. No matter how low one sets the threshold for morally relevant rationality, certain persons would still lack it, and some from birth until death. Further, the resultant thinned-out capacity becomes too unremarkable to warrant human dignity and distinguish it from the moral status of nonhumans. Some animals, for example, dolphins and apes, exhibit features of rational agency, including torment, attachment, empathy, and cooperation, that equal and exceed that of many a person suffering from debilitating ailments of the mind. A view of dignity rooted in rational capability has difficulty differentiating the moral standing of humans and animals in such circumstances. With a consistent application of this view, some persons’ dignity would have to be degraded and some animals’ dignity elevated.\textsuperscript{46} Wolterstorff also questions whether the rationalist approach can avoid gradations of human dignity relative to someone’s mental powers. If at bottom persons are prized for their rationality, then those who are better at exercising it should seemingly have more worth than those who are worse at it. He worries that in a

\textsuperscript{45} Ibid., 325-329.

\textsuperscript{46} Ibid., 329-333.
community based on the Kantian notion of dignity, less rational individuals would face inferior regard and protection.\textsuperscript{47}

Rational agency in itself is not the culprit here. Any capacities-driven strategy is problematic on Wolterstorff’s reading because it leaves some people beyond the moral pale, as they are found lacking whichever feature is specified to derive human dignity. This problem plagues even those thinkers who do not explicitly draw on capacities to ground human rights. Wolterstorff fleshes out the dilemma in two prominent secular approaches by Ronald Dworkin and Alan Gewirth. Dworkin locates human dignity in the creative wonder of human evolution, the awe-inspiring mystery and grandeur of the processes driving its unfolding. Human beings elicit respect as nature’s preeminent progeny with the greatest powers to advance its wondrous works; they are to be admired and protected as both creatures and creators of history.\textsuperscript{48} Gewirth, in contrast, finds a source for interpersonal moral regard in dispassionate reflection on practical rationality. Shorn of its intricate details, the argument amounts to the following proposition: claiming basic rights as a purposive agent entails, “on pain of self-contradiction,” respecting those very same rights in others.\textsuperscript{49} Whatever other difficulties haunt both of these proposals, they succumb, for Wolterstorff, to the same dilemma: some people would be left out based on their diminished features definitive of personhood—creative self-mastery and analytical deliberation are not accessible to everyone. Neither of the proposals grapples with the

\textsuperscript{47} Ibid., 390-391.
\textsuperscript{48} Ibid., 333-334.
\textsuperscript{49} Ibid., 335-340.
issue and suggests how the moral status of such persons differs in substance from that of other terrestrials.\(^{50}\)

Wolterstorff does not see any other secular candidates for placing inherent non-instrumental human worth on a secure footing. Only a religious ground would suffice, but even here one needs to tread carefully. A religious tenet stressing the unique character of human capacities would fall prey to the same pitfalls as its secular counterparts.\(^{51}\)

Wolterstorff discusses the prominence of \textit{imago dei} imagery in Christian construals of dignity that highlight human beings’ likeness to God and their dominion over all other creatures.\(^{52}\) How humanity is exactly like God and what this entails for its dominion has been understood in varying ways throughout history. For example, the likeness can be understood the way Karl Barth did as the gift and responsibility of enacting I-Thou relationships via mirroring God’s inner life as Trinity.\(^{53}\) However the imagery is interpreted, if the emphasis is placed on possessing and engaging the gifted capacities, developmental disabilities would, again, exclude some people. Even if the concept is rendered to underline belonging to human species and sharing its genetic constitution so that all human beings are seen as endowed with a nature which, if properly developed,

\(^{50}\) Ibid., 334, 339-340.

\(^{51}\) Jeremy Waldren provides one of the most extensive religious capacities-based accounts of dignity in \textit{Dignity, Rank, and Rights} (Oxford, UK: Oxford University Press, 2012).


\(^{53}\) Ibid., 344-345.
allows for exercise of dominion, human dignity would not be rescued: in covering all
humanity, it would lose its grandeur, as it would apply even to those representatives of the
species whose capacities are severely lacking or malformed. Human nature does not in
itself give a person great worth; when it is grievously malfunctioning, it can be viewed as
disposable, just like a luxury car with an engine damaged beyond repair loses its value
despite its manufactured prestige. By itself, then, the image of God cannot ground human
dignity.

What a religious grounding of human dignity needs is an idea that completely avoids
referencing human capacities, argues Wolterstorff. For him, God’s love for humanity serves
this purpose best in Christian theism. God loves all human beings equally and
unconditionally, and this love grants them unique worth in which their rights inhere. God’s
love does not itself confer human rights. Rights do not arise from divine command. They
emerge from respect the worth of the person demands amid various life contexts through
his actions, pursuits, and relationships. God’s love is indispensable to human rights because
it secures human worth no matter how far a person may fail in realizing his capacities or
come short of his species constitution. Human worth is bestowed worth. It is worth rooted
in a love of attachment. The worth is always intact whether the beloved attracts, excels or
flourishes.

54 Ibid., 350-352.
55 Ibid., 351. Wolterstorff calls this a “nature-resemblance” versus “capacity-resemblance”
interpretation of imago dei. Ibid., 349-350.
56 Ibid., 358-360.
Wolterstorff says that other religious traditions may also vindicate human worth, but he sees no convincing secular possibilities. That we feel compelled to recognize the preciousness of all human life and can explicate this conviction plausibly only in religious terms is for him an argument for theism.\footnote{Ibid., 361.} If you experience something as real and imperative, then, all other things being equal, whatever interpretive framework can account for the experience should have higher regard than those that cannot. Wolterstorff contends that the modern culture of human rights grew out of Judeo-Christian heritage, not secular Enlightenment. He plumbs Christian history to retrieve ideas central to human rights thought while developing polemical contrasts with ancient and modern alternatives.\footnote{Ibid., Part I.} If secular beliefs supplant this religious heritage, he fears that the commitment to human dignity may wane. Marxism and utilitarianism lack concepts to maintain the idea of inherent human rights.\footnote{Ibid., 390.} Kantian rationalism is the most promising secular source in this regard, but if it becomes ascendant, persons incapable of defending their needs through reasoned argument may, as argued above, be left in the lurch.\footnote{Ibid., 390-391.} Of course, philosophical underpinnings may be abandoned altogether. Like Rorty, one may credit religion for shaping human rights in the past, but rest content with their pragmatic justifications in the present.\footnote{A passage illuminating the character of Rorty’s moral outlook: “The first objection is that on my view a child found wandering in the woods, the remnant of a slaughtered nation whose temples have been razed and whose books have been burned, has no share in human dignity. This is indeed a consequence, but it does not follow that she may be treated like an animal. For it is part of the tradition of our community that the human stranger...”} Wolterstorff is skeptical of such an enterprise though, and
questions Rorty’s call for education of “sentiments” and “sympathy” apart from beliefs about what is true and good. Sentiments cannot endure and thrive without reasons; sympathy must be rooted in a compelling narrative of the human condition. Emotional stories of human misery are not enough to sustain a culture of human rights, as violence can also wield power over sentiments with defacing stories of human vice and folly. Only a full-bodied conviction, of both heart and mind, that human beings really have unique worth despite their flaws and failures can safeguard human rights in the face of adversity and callousness.

Comprehensive Good

In exploring human origins and destiny, religion grapples with questions of a full and exemplary human life. Secular ethics tends to disregard such questions and it is this disregard that some religious thinkers deem most pernicious. Secular justifications of human rights, as of other basic ethical and political norms, deliberately aim to set aside what contemporary philosophers call comprehensive doctrines of the good—theoretical

from whom all dignity has been stripped is to be taken in, to be reclothed with dignity. This Jewish and Christian element in our tradition is gratefully invoked by free-loading atheists like myself, who would like to let differences like that between the Kantian and the Hegelian remain ‘merely philosophical.’ The existence of human rights, in the sense in which it is at issue in this meta-ethical debate, has as much or as little relevance to our treatment of such a child as the question of the existence of God. I think both have equally little relevance.” Richard Rorty, “Postmodernist Bourgeois Liberalism,” The Journal of Philosophy 80, No. 10 (Oct. 1983): 588-589.

62 Ibid., 391.
and practical accounts of values and virtues human life should strive for as a whole. Comprehensive doctrines are viewed as best left in private spheres and should have no normative sway over public discourse and policy. Human rights formulations are to be neutral to overarching life perspectives so that people of different cultures and persuasions could adopt them. To many religious critics such conceptions of moral reason and life are misguided. No important ethical issue could be addressed for them without examining human flourishing in holistic terms. Questions about what makes a good person and a good society, which values are worth living and dying for, or how practices and institutions can shape virtuous character are central to moral inquiry. Sometimes this critique is made to dismiss the notion of human rights altogether, to show that the very idea of subjective rights is spurious and destructive, and at other times, the aim is to advance a particular narrative or strands of narratives of the good life that supports human rights ethics most persuasively. Alasdair MacIntyre is distinguished for bringing this form of critique to the fore and thinkers working from similar premises widely engage his theoretical insight.64

MacIntyre relates an evocative story by Captain Cook from his voyages in Polynesia at the turn of the nineteenth century to elucidate the predicament modern secular philosophers face when seeking normative moral criteria. Cook recounts that British sailors were stunned to see how permissive the aboriginals were in their sexual conduct.

while banning such an innocuous custom as men and women sharing a meal together. The custom was declared “taboo.” Why? They could get no clear answer and were puzzled about the word’s meaning. Taboo was not equivalent to something being forbidden. It conveyed a specific reason for the forbidden act, but what type of reason the seamen had difficulty understanding, as did the many anthropologists studying the culture thereafter. MacIntyre suggests that the natives themselves may have been unaware of what taboo really meant by way of justification, and so when king Kamehameha II had scrapped taboos in Hawaii only a couple of generations later, there was no notable resistance. MacIntyre explains that taboo rules gain their meaning and authority through a communal history of beliefs and practices. Take that history away and the rules become unintelligible, to both practitioners and observers. Attempts to explicate these rules and theorize about their normative import apart from their contextual background are forced and futile.65

Current secular ethics for MacIntyre faces a similar confusion when attempting to ground reigning moral norms apart from historical traditions. Secular philosophy has inherited a rich moral vocabulary from traditional societies, but having discarded their cultural history, employs it to bewildering ends. On MacIntyre’s reading, secular moralities are in a grave crisis: their discourse is fragmented, rationalities incoherent, and disagreements interminable. They lack a shared standard to guide their inquiries and resolve their disputes. What passes for reasoned debate is a contest of desires and preferences driven by a blurred mix of persuasion and manipulation.66

66 MacIntyre, After Virtue, Ch. 6.
The underlying cause of this crisis for Macintyre is the loss of a teleological view of moral life prevalent in the West prior to the Enlightenment period. Pre-Enlightenment thinkers, most notably Aristotle and Thomas Aquinas, conceived ethics as a search of the good life. Human beings have a fundamental purpose or telos, to attain happiness in accordance with perfection of their essential nature. The world is ordered toward specific practices, character traits, and goods through which the self can realize its true potential. To ignore this potential is to live an impaired, dissatisfying life. Ethics thus aims at educating and transforming humanity from what “it-happens-to-be” toward what “it-could-be-if-it-realized-its-telos.”

Enlightenment, on MacIntyre’s telling, had lost faith in this perfective narrative of human telos and sought to erect morality from the given, unperfected features of human life. For this task Enlightenment figures had turned to ordering either passions, which produced varieties of consequentialism, or reason, with the resultant varieties of deontology. Neither of these secular ethical paradigms have succeeded in their stated endeavors, by MacIntyre’s lights. Utility fails because it homogenizes incommensurable human goods, and deontology because it treats persons as self-contained nomads detached from their embodied web of social practices, relationships, and roles.

Without substantive reflection on human capacities and purposes, the procedural objectivity these secular paradigms assert only works when there is some agreement about shared goals, albeit that the consensus often masks configurations that benefit some groups at the expense of others. When there is a salient

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67 Ibid., 52-53.
68 Ibid., 70.
69 Ibid., 33.
disagreement about goals, whether about their content, ranking or implementation, objectivity breaks down. Aware or not, most secular theorists, argues MacIntyre, subscribe to moral "emotivism," the idea that lifestyles and values are relative to cultural or personal preferences. 70 As examination of the best human life is presumed a matter of aesthetic subjectivity and primary life choices are taken at face value, moral discourse invariably shifts to using procedural rules to advance arrangements that best cohere with one's own private or collective beliefs and interests, just the kind of partial process the theories have sought to eliminate. Substantive assumptions about human nature and welfare cannot be disentangled from procedural considerations; setting them aside is simply leaving them unexamined, and so they sneak up as arbitrary, distorted, and partisan. Hence theoretical incoherency, social fragmentation, and interminable moral conflicts.

MacIntyre is regarded as a staunch skeptic of the concept of human rights. His dismissal of them as “fictions” akin to “belief in witches and unicorns” is widely recited by his disciples and detractors alike. 71 Despite the impassioned rhetoric of disbelief, MacIntyre’s criticisms may best be understood not as a wholesale renunciation of rights language per se but as a nuanced denial of its particular use in secular moral theory. MacIntyre observes that modern secular rights attach to individuals qua individuals, not qua members of particular communities or a universal community subject to a teleological order. Rights center on individual autonomy and are defined around generic features of humanity amid highly abstract universal conditions of life. So understood, rights set up norms independent of a person’s participation in varied social groups. A right is possessed

70 Ibid., ch. 2.
71 Ibid., 69-70.
prior to communal commitments and can be invoked to constrain collective demands and loyalties. Self-governing and self-contained, modern selves pledge allegiance to the community on the condition that it secures their fundamental entitlements. Comprehensive visions of life, MacIntyre says, are avoided in this conception of rights as appeal must be made to reasons equally accessible to everyone. Varied value-neutral theoretical frameworks are summoned instead to anchor the conception, centering on utility, contract, intuition, or practical logical necessity, notwithstanding that, absent shared criteria of rationality, the theories continually contest not only how rights arise, but which rights hold sway when, what they entail, and how they harmonize.72

What MacIntyre identifies and rejects in secular moral philosophy is a view of rights as claims to entitlements divorced from a person’s telos, a life of virtue in a community enacting human good. In the Middle Ages, an exemplary period of Western intellectual history for MacIntyre, a *jus*—that which is binding on all when viewed objectively and that which is due to oneself alongside others when viewed subjectively—was understood as a moral rule ordering human affairs in specific institutional forms and subject to natural teleology and Divine Law. In that scheme, a right, in the sense of a claim to justice, could not be conceived and adjudicated apart from relationships, engagements, and communities, their diverse goods and thick requirements. The idea of entitlement to some good or just treatment had meaning and mandate only in the context of mutual responsibilities persons perform as parents, friends, neighbors, colleagues, and compatriots. No claim could thus

ever be fully absolute or inalienable; it was always correlative to the shared pursuit of overall flourishing and someone’s need of and contribution to its constituent parts.\textsuperscript{73}

In contrast, the modern secular rights of autonomous individuals devoid of a moral teleology erode not only communal bonds, but also the inner life of the self, according to MacIntyre. Rights abstracted from thick practices and the shared pursuit of the good place persons in adversarial camps that levy counter claims on each other with no hope of synthesis or equipoise. Without a holistic narrative of the moral life, no one can explain how rights cohere and reconcile—not only across competing cultural, political, or economic ideologies, but also amid equally pressing demands of families, workplaces, professional bodies, churches. Rival secular models for resolving these conflicts cannot but smuggle in unexamined commitments into their procedural considerations and they elicit assent only when interlocutors already agree on the ranking scale of considered goals. In thus seemingly incompatible, antagonistic moral universes, people cannot help feeling burdened by their social bonds and personal responsibilities.\textsuperscript{74}

MacIntyre finds that secular philosophies especially struggle with conceptualizing the genesis of moral commitment as their theoretical outlook splits up facts and values.\textsuperscript{75} With the world in itself perceived indifferent to any life orienting choices, personal fulfillment is severed from and remains ever in friction with moral obligation. Secular theories cannot answer credibly why someone should commit to any robust other-

\textsuperscript{73} MacIntyre, “Community, Law, and the Idiom and Rhetoric of Rights,” 99-100; 102-103; 106-110.
\textsuperscript{74} MacIntyre, “Community, Law, and the Idiom and Rhetoric of Rights,” 104-106.
\textsuperscript{75} MacIntyre, After Virtue, 57-59; 83-85.
regarding morality, including human rights ideals. In the teleological scheme, that answer is clear for MacIntyre, as moral responsibilities are seen as organic with fundamental human purposes. In MacIntyre's version of classical teleology, human practices aim at determinate goods partaking in which allows persons to exercise varied excellences. Each practice, be it a hobby, vocation, civic duty, or parenthood, has goods internal to it—that is, goods specific to the knowledge, experience, and character traits required for mastering a given pursuit—and goods external to it, such as status, power, or wealth, which are accidental to the practice as they can be obtained by various other means. Sometimes internal and external goods may be in tension, for example, when someone is tempted to win a contest by cheating, yet preoccupation with external goods is self-defeating, depriving you of the excellences that can be acquired only by pursuing internal goods.76 Further, teleological reflection on the diversity of human goods prompts you to harmonize them and thus recognize additional practices and excellences needed to conceive and cultivate flourishing as a holistic undertaking across a whole life. Your quest for the good becomes an odyssey calling for manifold virtues to keep your dispositions steady in the face of sundry distractions and adversities.77 Finally, examination of the good life leads you to acknowledge the ways your flourishing is bound to various communities. Seeing how your identity and wellbeing are indebted to your roles as a family member, a coworker, a citizen, you seek to foster still further practices and excellences vital to advancing your social and political institutions.78 In this teleology of the good life, moral obligations are

76 Ibid., 187-189.
77 Ibid., 218-219.
78 Ibid., 220-222.
thus part and parcel of your everyday engagements and relationships, being indispensable to their health and fulfillment.

MacIntyre’s analysis underlines that ethical inquiry, as all other forms of knowledge, is historical and communal. No moral norm can be ascertained apart from the ways of life of particular historical traditions in such a fashion that any reasonable person at any time anywhere could affirm its validity. This does not entail relativism. Not all traditions have adequate conceptions of moral knowledge or the good life, but they can recognize and assess this only in dialogue with one another, not by some aperspectival or apriori principles of rationality. There is objective moral truth, but it can be ascertained and enacted only through the partial resources of a particular tradition and its contextual interaction with others. Traditions can identify internal problems—inconsistencies, ambiguities, conflicts—in each other’s evaluative frameworks and suggest their own approach for settling them, or they can point to new possibilities of life with different meanings and values that the others would recognize as important but could not account for on their own. In MacIntyre’s scheme, it is even imaginable that in the course of questioning these internal problems and new possibilities, all traditions find each others’ resources inadequate and push for a whole new tradition with a distinctive evaluative framework. There is no guarantee that at any one point the more truthful tradition wins the argument or that truth is not severely distorted in all of the available options, but this does not invalidate the idea of truth and the search for it. This simply means that truth
claims can emerge and be tested only through practice and reflection on it in conversation with others.  

For MacIntyre, Aristotelian Thomism is the most credible ethical tradition as of now. On his telling, it has won against its rivals in both moral theory and content and offers the most cogent account of human nature and flourishing, and of their biological and metaphysical groundings. MacIntyre’s skepticism of secular rights notwithstanding, universal human rights could still be conceivable in his theoretical framework, but only within a universally shared narrative of the human good. Such rights would be understood as persons’ claims to what is their due correlative to what they and others owe each other while nurturing communal wellbeing. Of course, the prospects of a universally shared Aristotelian Thomism are very dim in the foreseeable future, and so in the present, “the idiom and rhetoric of rights,” uprooted as it is from a moral teleology, breeds only

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80 MacIntyre, *After Virtue*, x-xiv. MacIntyre’s grand narratives on the superiority of Thomist tradition to its rivals, see his *Whose Justice? Which Rationality?* and *Three Rival Versions of Moral Inquiry: Encyclopaedia, Genealogy, and Tradition* (Notre Dame: University of Notre Dame Press, 1990). MacIntyre’s own philosophy of religion is partially revealed in the essay, “On Being a Theistic Philosopher in a Secularized Culture,” *Proceedings of the American Catholic Philosophical Association* 84 (2010): 23-32. His overall sentiment is conveyed in this passage: “Atheists have no difficulty in appreciating aesthetically what are sometimes called ‘the wonders of science,’ such structures as those of the eye or the DNA helix. But they are quite inadequately astonished by some features of the cosmos. The nineteenth- century painter, J. M. W. Turner, while walking in the Welsh mountains suddenly and unexpectedly came upon a striking landscape. His response was to shout out ‘Well done, God!’ That was very much my own response, when I first came across Richard Dawkins. And it is the capacity to respond to nature in this way that is at the heart of theism, a capacity that tends to disappear as a culture is secularized.” Ibid., 27-28.

confusion, says MacIntyre. His advice is to swap the language of rights for that of “justice in service of a theologically based natural law,” and to cultivate a community around that justice. The virtues and institutions of that community will seem mystifying and oppressive to outsiders and so it will have to bear with opposition and hostility.

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These religious criticisms of secular grounds for human rights have different variations, some more amenable than others to harmonizing with secular perspectives. They are each also highly contested, both by religious and secular critics. Some question their details, for example, interpretations of religious sources or portrayals of secular opponents, and others challenge their overall argument, pointing to internal tensions or unconsidered alternative conceptions. We will touch on some of these variations and appraisals later on when we draw on the capabilities approach to grapple with the discussed criticisms. For now, we can simply appreciate the force of the developed arguments and note that plenty of secular critics feel their sting, confessing that religious disenchantment has placed a commitment to human rights on wobbly ground in need of steadying. Some bemoan the damage unbelief in ultimate meaning inflicts on passion for universal justice. Typical secular sources of moral obligation are acknowledged to have limits: prudence struggles with unmerited and unreciprocated regard and rationalism presumes the primacy of reciprocal integrity

82 Ibid., 109.
83 Ibid., 106.
84 Ibid., 106-110.
85 Habermas, Religion and Rationality, 81-82.
without fully squaring it with the idea of a chaotic cosmos. Others concede being in *zungzwang*\(^{86}\) when articulating human dignity apart from the idea of sacredness: that each person commands the same unique moral respect “generates tensions and appears to force choices that some of us would prefer not to make.”\(^{87}\) And many secularists recognize that theories oblivious to human good distort and impoverish evaluation of rights and moral norms generally, and they propose varied secular sources of civic piety and flourishing that all citizens could share.\(^{88}\) The religious challenge to secular human rights ethics is clear: a compelling account of its normative status has to explain how we can seek enduring human goods with other-regarding concern for universal solidarity, how we can possess equal moral worth distinct from other sentient beings, and how we can adjudicate questions of holistic flourishing amid or apart from shared reasons and sources of obligation. Before moving forward to confront these concerns, let’s end with two poignant secular lamentations on the status of human rights, dignity, and common good.

“I can admit, a little embarrassed about talking, as I so often do, of the preciousness of each individual human being, not least because it can sound precious, or sentimental or soft-headed, but I can find no better way of speaking. The secular philosophical tradition speaks of inalienable rights, inalienable dignity and of persons as ends in themselves. These are, I believe, ways of whistling in the dark,

\(^{86}\) A situation in chess where you are compelled to make a move that will put you at a significant disadvantage, potentially precipitating defeat. (*Zungzwang*—German for compulsion to move; figuratively, to be put on the spot, to be in a tight spot.)


ways of trying to make secure to reason what reason cannot finally underwrite. Religious traditions speak of the sacredness of each human being, but I doubt that sanctity is a concept that has a secure home outside those traditions."[^89]

"Who or what gives us the courage for such a total engagement that in situations of degradation and deprivation is already being expressed when the destitute and deprived summon the energy each morning to carry on anew? The question about the meaning of life is not meaningless. Nevertheless, the circumstance that penultimate arguments inspire no great confidence is not enough for the grounding of a hope that can be kept alive only in a religious language. The thoughts and expectations directed toward the common good have, after metaphysics has collapsed, only an unstable status."[^90]

[^90]: Habermas, *Religion and Rationality*, 82.
HUMAN CAPABILITIES

The capabilities approach is a theoretical framework that takes ability to achieve human wellbeing as central to understanding the nature of justice. Moral philosophers, social scientists, and public policy experts have employed the approach to measure persons’ quality of life across nations, evaluate the fairness of social arrangements, and design policies aiming at social change. Its theoretical insight has wielded particular influence in economic and global development projects, most notably the United Nations Development Program and its annual *Human Development Reports*. The economist and philosopher Amartya Sen has pioneered the capabilities approach against resource- and utility-based accounts of human wellbeing.91 His guiding idea is that capability, what people are capable of being and doing, rather than wealth distribution and subjective welfare, is key to assessing personal development and societal progress. When appraising someone’s life, one should examine not only what resources they have, but also how they are able to convert these resources into valuable experiences and pursuits. Different personal, social, and environmental factors can influence the conversion. An elderly person bound to a wheelchair, a woman subdued into domestic labor, or a child losing parents to an

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earthquake do not stand on an equal footing with their peers. Physical condition, gender, social stratification, cultural customs, climate, pollution, natural disasters and resources, among scores of other circumstances, can greatly advantage or handicap people’s control over their wellbeing. Further, a person’s capabilities are decidedly plural and heterogeneous, resisting any reduction to a single value and simple aggregation. What people are able to be and do differs in quality, and not just in quantity, and so helping someone achieve their wellbeing requires probing the distinctive nature of each valued condition and practice. This entails that not all preferences are commensurable and reflect a person’s substantive need or actual wellbeing. The choices of the privileged can be self-indulgent and scornful of disparity and hardship, and those of the marginalized acquiescent to entrenched abuse or deprivation. Individual preferences thus need to be assessed and ordered toward greater freedom and equality.

Martha Nussbaum has taken the lead in advancing the capabilities approach in moral philosophy. The approach aligns with her philosophical moorings in Aristotle and other ancient Greeks for whom ethics was concerned with understanding a good human life, how to live in a meaningful and fulfilling way. Ethical thinking for them began with examining what human beings are like and what they strive for and then investigating which practices, relationships, and communities could help them attain their full potential and thrive together with others. Nussbaum is drawn to the capabilities approach because it focuses on the contents and conditions of flourishing, highlights heterogeneity of goods against average welfare, and commits to individual agency and empowerment. This chapter will discuss how Nussbaum makes use of the capabilities approach and ancient Greek philosophy to develop a theory of social justice and basic political entitlements. We will
show how her views on the grounding of human rights are nested within this theory so that we can then proceed to examining how the capabilities approach may address the criticisms raised in the introduction.

Essentialism and Internal Evaluation

Nussbaum’s theoretical outlook takes human nature to be an indispensable source of moral knowledge. Ethical norms take their evaluative cues from the basic features of human life, their needs, desires, powers, limits, all those things that make human life distinctive and worth living. Nussbaum calls “essentialism” a position that regards some of these basic features as essential to human functioning. While this ethical stance has long roots in human history, it has been viewed as highly dubious in contemporary philosophy and social science. For many contemporary thinkers, Nussbaum observes, human nature could be a moral guide only if it could be assessed from an external, independent standpoint. Such a standpoint could have been settled by either metaphysics or a value-neutral scientific account, but both are deemed chimeras. Metaphysics promises a viewpoint of reality from beyond history, yet even if such a viewpoint exists, the critics cannot fathom how it can be attained and made relevant to human knowledge, bound as it is by the vagaries of time and place. In turn, scientific prescriptions for moral conduct purporting to be free of bias and value at best run afoul of the naturalistic fallacy, the notion that what human beings typically do can legitimate what they ought to do, and at worst lead to pernicious bigotries. Contemporary critics are especially wary of the ways essentialist
accounts of human nature have been used to benefit social elites, masking their privilege and paternalism under the guise of objective ideals.92

While acknowledging that some of these concerns have a bite, Nussbaum argues that disenchantment with metaphysics and suspicion of interest-free science can give way to an internal and value-laden viewpoint on human nature and ethics. Nussbaum calls moral skepticism born of despair over the external viewpoint “a shame before the human.”93 The skeptics are so enthralled with the idea of flawless objectivity from a source beyond themselves that they are ashamed to take seriously their own, fallible sources of insight. To elucidate the skeptics’ predicament, she draws on Aristotle’s use of a story about the astronomer Heraclitus and his pupils. Enthusiastic about meeting their renowned teacher for the first time, the students were crushed to find him, not as some larger than life character on a mountain peering into the stars, but as an ordinary householder reclining in his kitchen (or on his toilet, according to some philologists). “Come in, don’t be afraid. There are gods here too,” declared Heraclitus, upon seeing the pupils’ disappointment. Aristotle uses the story to challenge his own students to look beyond their disgust over the gruesomeness of animal organs and find in the animal kingdom distinctive order and wonder.94 So too Nussbaum prods moral skeptics to shed their veneration of the external viewpoint and own their all too human reasoning to seek


out continuities and patterns amid life’s fluctuations and tangles. We can examine our experience from inside history to learn what we are, what we need and value, and how in that light we should treat each other. Our judgments need not be validated by an independent transhistorical source to be normative, as it would be futile to try ascertaining how things may appear to a being or in a realm that stands outside our finite perceptions. What can be ascertained and assessed is how we experience and what we think of ourselves. Human nature, Nussbaum says pointedly, is an ineluctably “inside perspective, not a thing at all, but rather the most fundamental and broadly shared experiences of human beings living and reasoning together.”

To be sure, such an internal viewpoint is imperfect and revisable. We do need to guard against self-congratulatory and self-serving determinacy in our conclusions. But our judgments can still be credible and binding, as we continually scrutinize them and find that certain self-understandings and ways of life endure through time and across places. That we impart values as we interpret our experience does not make the internal viewpoint any less valid. Our practice of ascribing significance and fulfillment to our pursuits is just as essential to our functioning and just as accountable to normative assessment, as our other reasoning activities. Those who distinguish between facts and values, extolling the former and disparaging the latter, misunderstand how knowledge works. All forms of inquiry, those of hard and soft sciences

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as well as of ethics and aesthetics, are laced with interests and valuations. Practical wisdom comes from unearthing and assessing values, not minimizing or suppressing them.\textsuperscript{96}

Nussbaum draws on the ancient Greeks to show how this internal, value-laden moral reflection on human nature can proceed and acquire normative status. Especially illuminating is Plato's dialogue \textit{Philebus} where Socrates and his young interlocutor Protarchus consider whether pleasure is the supreme human good. Socrates nudges Protarchus to imagine a life brimming with pleasure, but devoid of choice and reason. Protarchus is attracted to this idea, for he would seemingly relish everything his heart desires. Socrates responds that such an existence would have no purposive awareness and choice of pleasure—no belief of its current possession, no memory of its past enjoyment, and no control over its future planning. What we will have is “not the life of a human being, but one belonging to some jellyfish or some one of the living creatures in the sea with bony bodies.” Protarchus is dumbfounded as, upon deeper reflection, mindless pleasure indeed does not seem “choiceworthy” of a human being.\textsuperscript{97} The conversation has no appeal to transcendent or value-free insight. The reasoning is suffused with the interlocutors’ own everyday beliefs and concerns, and aims at probing and reconciling them. Protarchus is moved to change his mind because what he himself thinks about who he is and what he values includes use of choice and intellect. His identity and way of life would be

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\textsuperscript{96} Nussbaum, “Human Functioning,” 214.
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unrecognizable otherwise; he would become some other kind of creature whose purposes would seem worthless.\textsuperscript{98}

A similar type of reasoning, Nussbaum shows, animates Aristotle’s moral reflection. In advocating for our sociality and value of friendship he writes: “For without friends nobody would choose to live, even if he had all the other goods. For even rich people and people who hold office and the power of rule, it seems, have a particularly great need for friends. For what good are all those goods, if benefitting is taken away? But this happens above all, and in the most praiseworthy way, towards friends. And how could such a person be protected and saved without friends? For the greater he is, the more danger he is in. And in poverty and other misfortunes they think that the only refuge is one’s friends.”\textsuperscript{99} Again ordinary beliefs and cares drive the argument. The viewpoint put forth is not that of neutral, detached discovery, but of engaged evaluation. We are asked to consider not only how we see ourselves but also what we care about, what types of life we would regard both livable and worthwhile. Of course, we can imagine someone living physically apart from others, but given what we know about how we develop and thrive, a solitary life aloof to social bonds and pursuits would appear to us so profoundly disoriented and impoverished that we would no longer recognize the person living it as one of us, as someone who is shaped by the same experiences and concerns that we perceive to be most significant and indispensable. Complete self-sufficiency would seem to deprive us of the selfhood we have come to identify with. The Greek poets did imagine such creatures. Homer’s \textit{Odyssey} tells of Cyclopes, reclusive giants who disregarded the goods of companionship, with gods

\textsuperscript{98} Ibid., 98-102.
\textsuperscript{99} Ibid., 103.
supplying their material needs. Despite their human appearance and ability to reason, they were treated by Homer and his contemporaries as nonhuman brutes.\textsuperscript{100}

For Nussbaum, this kind of moral evaluation of the contours and ends of human life compels us to acknowledge certain forms of our identity and practice as so deeply woven into our constitution that they cannot be ignored and left undeveloped without depriving us of our humanity. These forms so ground our experience of the world that we cannot envision how any person can live a distinguishably and fully human life apart from them. As the world grows more interdependent and we get to know other cultures and their histories, we recognize great diversity in how people have interpreted themselves and sought meaning and fulfillment. Yet as we learn from each other and engage issues of common concern, we also note that this diversity includes substantial overlap in what we cannot help being and valuing no matter where we find ourselves.\textsuperscript{101} Human beings do evolve and differ from one another with time and place, but certain features remain constant, pointing to inescapable limits and possibilities within which they have to understand themselves, make choices, and follow pursuits alongside others. We are all animated by some common vulnerabilities, needs, capacities, cares, aspirations, challenges. Nussbaum compares moral insight into these inescapable limits and possibilities to navigational knowledge. Just like navigational referents remain consistent and serve as a stable guide in different weather conditions, so does evaluation of the universal constants


\textsuperscript{101} Nussbaum, “Human Functioning,” 216.
of human nature provide a normative groundwork for ethical discernment amid diverse commitments and circumstances.¹⁰²

**Justice and Political Liberalism**

In Greek and other ancient and modern traditions, this essentialist understanding of human nature was harnessed to a single comprehensive view of human flourishing. So Aristotle not only identified various human goods, but also worked out a total vision of life in which they coalesce into a perfecting harmony within both the person and the community. Humanity is to cultivate virtues to attain the goods endemic to each arena of experience and action. But this is not enough. The goods interact, compete, clash, and thus need to be ordered. Justice consists in prioritizing and unifying them in a harmonious whole. The purpose of government is not only to enable citizens to participate in this whole, but also to cultivate their character toward advancing it, as well as inculcate against pursuits threatening it. Nussbaum resists the singular and perfective character of the comprehensive view of human flourishing. In pluralistic democracies, social justice should be so conceived that its contents could be affirmed by people espousing different credos of the human good, and the state should restrict itself to enabling access to a flourishing life while abstaining from promoting a particular idea of flourishing and disciplining trivial or corrosive conduct.

The fundamental goal is securing the minimal conditions central to the pursuit of a worthwhile life.¹⁰³

In this minimalism Nussbaum shows allegiance to political liberalism, though she eschews defining it, as many of her fellow liberals, by procedure rather than outcome. Nussbaum calls her position a “thick vague theory of the good,” to set a contrast with John Rawls’ contractarian “thin theory of the good.”¹⁰⁴ Justice for her should aim at specific results, the particular contents of a good life, and design procedures to achieve them. The procedure is good only insofar as it helps to bring about the desired outcome. Nussbaum says it is just as odd to define justice by procedure rather than content as it is to judge a good pasta by how it was made rather than how it tastes.¹⁰⁵ Contractarians of John Rawls’ persuasion insist on the priority of the right procedure but can produce a plausible account of justice only to the extent to which they can pack substantive content into its formal structure.¹⁰⁶ Political justice for Nussbaum should be explicit from the outset about the goods it requires and should link them with an account of how human beings are constituted and thrive. This account should be “thick” enough to show how goods contribute to a person’s quality of life and “vague” enough to allow for multiple forms of conceiving and implementing them within diverse communities.¹⁰⁷ The formulation should

¹⁰³ Nussbaum’s develops the distinction between liberal and nonliberal readings of Aristotle in “The Good as Discipline, the Good as Freedom,” Ethics of Consumption: The Good Life, Justice, and Global Stewardship, eds. David A. Crocker and Toby Linden (Lanham, MD: Rowman and Littlefield, 1998), 312-341. Also see Frontiers of Justice: Disability, Nationality, Species Membership (Cambridge, MA: Belknap Press, 2006), 182.
¹⁰⁵ Nussbaum, Frontiers, 83.
¹⁰⁶ Ibid., 81-83.
not draw on any controversial metaphysical or religious doctrines but use insights from sciences, arts, and mythologies that people of different convictions and cultures could recognize as indispensable to understanding the human condition and the good life. The contents of social justice should thus aim for confirmation by an “overlapping consensus,” but with recognition that their ultimate grounding—what the overlapping consensus aims at—is the enduring shared conditions of flourishing.

Like Rawls, Nussbaum thinks that the conception of justice should be “freestanding,” that is, independent of any overarching view of the world, any secular ideology or religious doctrine, or even any particular notion of human nature. She envisages that persons from diverse backgrounds can agree on this conception for political purposes and find distinct ways to incorporate its norms into their comprehensive beliefs. Not everyone may prize the suggested norms within their own value system, but they can accept their importance for ordering the life of polity as a whole. For example, the Amish may not care about voting, but they can still judge it better to live in a wider society supporting political freedoms than under a benevolent dictator. Some atheists may deplore religion, but still concede that freedom of conscience and worship are vital to a just community. Socratic reasoning propels the overlapping consensus on this freestanding conception. Nothing is set in stone beforehand. We put forth our deepest moral intuitions and test them against each other and against theories that seek to organize them alongside other deep-seated beliefs. Some intuitions can be revised or discarded because they conflict with the judgments of a

108 Ibid., 215 (and add others).
powerful theory; some theories will be set aside because they cannot encompass enough of our paramount values. The search for justice is never complete—new beliefs and values are to be tested, new theories to be entertained—but it is hoped that over time an adequate, stable account can develop and win over the public consciousness.¹¹⁰

Capabilities: Basic, Internal, Combined, and Central

Nussbaum draws on the conceptual framework of the capabilities approach to explicate how the essential conditions of human flourishing can ground basic norms of social justice. In that framework, the experiences and activities that people strive for as part of flourishing are thought of as “beings and doings.” A person can seek being well-nourished, sheltered, and educated and doing things like working, voting, and caring. The idea of capability points to a person’s freedom to achieve a variety of beings and doings, and it is contrasted with functioning defined as their active realization. Functioning is choosing and pursuing a given state of being or engagement, and capability is choice and empowerment to do so. Capabilities are also to be distinguished from the classical conception of virtues, which is what you need to exercise to turn capabilities into valuable functionings.

Nussbaum distinguishes between basic, internal, and combined capabilities. Basic capabilities are the person’s innate, untrained potentialities that make further development of more advanced capabilities possible. The examples include physical perception and movement, as well as rudimentary capacities for affection, communication, reasoning, and

purposive action. *Internal capabilities* are the developed traits and abilities persons nurture through normal maturation and interaction with the environment, as when someone learns how to play, love, pray, or debate. *Combined capabilities* are internal capabilities combined with fitting external conditions for realizing them through functioning. These distinctions are important for elucidating how persons achieve flourishing or life goods and how societies can thwart or facilitate this achievement. For example, societies can foster development of internal capabilities, but fail at extending appropriate opportunities for their use. Thus, citizens can be free to practice their faith in private, but lack outlets for its meaningful expression in public spheres. Alternatively, societies can provide formal venues for creative choice, but offer inadequate support for the development of relevant capacities to exercise it. Nussbaum cites the example of Indian states that espouse democratic participation but do not proffer sufficient education and healthcare for all citizens to engage meaningfully in the political process. As a whole, social justice, therefore, aims at securing combined capabilities: a just society should support a person’s potential and nurtured freedoms to achieve valued functionings in the context of pertinent cultural, political, and economic environments.111

Nussbaum insists on specifying *central capabilities* if the capabilities approach is to serve as a full-fledged theory of justice, rather than only as a tool for measuring the life quality of individuals and nations. Sen has avoided producing a definitive list of capabilities out of concern for promoting freedom as an overarching social good. He thought that nations should produce such lists on their own in accordance with their local traditions. To

do otherwise is to infringe on their self-determination and democratic deliberation.

Nussbaum shares Sen’s reservations, but thinks they can be addressed at the level of specification and implementation while still affirming the primacy of certain capabilities as a requirement of justice. She argues that promoting freedom as an overall social goal can be an incongruous project. Some freedoms inevitably contend with and restrict others. The freedom of rich corporations to donate handsomely to political causes clashes with the freedom of equal political participation, as does the freedom of businesses to pollute the environment with the freedom of enjoying clean air and water. Further, some freedoms are inherently harmful, such as to harass women and to discriminate against minorities. Any society concerned with justice has to assess freedoms, ranking some as worthy and primary, others as neutral and trivial, and still others as precarious and destructive. A conception of social justice cannot affirm only that all citizens be entitled to capability conceived as freedom. As a normative concept, capability needs definite content to evaluate social norms and practices. Some capabilities are too important for the requirements of human flourishing to be left to the whims of national majorities. The values of autonomy and pluralism are crucial, but they are not absolute and cannot overturn other concerns of a just society.\textsuperscript{112}

Nussbaum delineates ten central combined capabilities that are indispensable to human flourishing and fundamental to social justice.

1. Life. Being able to live to the end of a human life of normal length; not dying prematurely, or before one’s life is so reduced as to be not worth living.
2. Bodily Health. Being able to have good health, including reproductive health; to be adequately nourished; to have adequate shelter.

\textsuperscript{112} Nussbaum, “Capabilities as Fundamental Entitlements: Sen and Social Justice,” \textit{Feminist Economics} 9, no. 2–3 (2003), 33-59, esp. 43-48; Also \textit{Creating Capabilities}, 70-73.
3. Bodily Integrity. Being able to move freely from place to place; to be secure against violent assault, including sexual assault and domestic violence; having opportunities for sexual satisfaction and for choice in matters of reproduction.

4. Senses, Imagination, and Thought. Being able to use the senses, to imagine, think, and reason—and to do these things in a “truly human” way, a way informed and cultivated by an adequate education, including, but by no means limited to, literacy and basic mathematical and scientific training. Being able to use imagination and thought in connection with experiencing and producing works and events of one’s own choice, religious, literary, musical, and so forth. Being able to use one’s mind in ways protected by guarantees of freedom of expression with respect to both political and artistic speech, and freedom of religious exercise. Being able to have pleasurable experiences and to avoid nonbeneficial pain.

5. Emotions. Being able to have attachments to things and people outside ourselves; to love those who love and care for us, to grieve at their absence; in general, to love, to grieve, to experience longing, gratitude, and justified anger. Not having one’s emotional development blighted by overwhelming fear and anxiety. (Supporting this capability means supporting forms of human association that can be shown to be crucial in their development.)

6. Practical Reason. Being able to form a conception of the good and to engage in critical reflection about the planning of one’s life. (This entails protection for the liberty of conscience and religious observance.)

7. Affiliation. A. Being able to live with and toward others, to recognize and show concern for other human beings, to engage in various forms of social interaction; to be able to imagine the situation of another. (Protecting this capability means protecting institutions that constitute and nourish such forms of affiliation, and also protecting the freedom of assembly and political speech.) B. Having the social bases of self-respect and non-humiliation; being able to be treated as a dignified being whose worth is equal to that of others. This entails provisions of nondiscrimination on the basis of race, sex, sexual orientation, ethnicity, caste, religion, national origin.

8. Other Species. Being able to live with concern for and in relation to animals, plants, and the world of nature.

9. Play. Being able to laugh, to play, to enjoy recreational activities.

10. Control over One’s Environment. A. Political. Being able to participate effectively in political choices that govern one’s life; having the right of political participation, protections of free speech and association. B. Material. Being able to hold property (both land and movable goods), and having property rights on an equal basis with others; having the right to seek employment on an equal basis with others; having the freedom from unwarranted search and seizure. In work, being able to work as a human being, exercising practical reason and entering into meaningful relationships of mutual recognition with other workers.\(^\text{113}\)

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\(^{113}\) *Creating Capabilities*, 33-34; *Frontiers*, 76–77; *Women and Human Development*, 79-80. For earlier articulations, see also “Human Functioning,” 222 and “Aristotelian Social Democracy.” In *Liberalism and the Good*, eds. R. Bruce Douglass, Gerald M. Mara, and Henry S. Richardson (New York: Routledge, 1990), 225.
For Nussbaum, a life that lacks any of the central capabilities cannot be viewed as good no matter what a person chooses and pursues. All people should have access to these capabilities to secure the minimal conditions of a flourishing life. In this sense, capabilities are prepolitical and belong to persons by virtue of their humanity, prior to and apart from their membership in a polity.\textsuperscript{114} States everywhere should guarantee these capabilities as fundamental entitlements of justice, and the world community is under collective obligation to advance these entitlements for citizens whose states flunk this responsibility. Central capabilities thus form a basis for the just formation of government and constitutional order. The governments are entrusted by the consent of the governed to work out appropriate laws and institutions that protect central capabilities for everyone. This conception does not entail a world government, but it does imply that when some states fail their citizens in matters of basic justice, it falls to other states to help secure it. The duties to secure central capabilities are designated first and foremost to states; but they also apply to international agencies, non-governmental organizations, corporations, and individuals. The duties are ethical, not political, and are obligatory apart from legal and institutional authority.\textsuperscript{115}

\textit{Capability Threshold, Capability Heterogeneity, and Capability as Political Goal}

Since capabilities can be attained in unequal degrees, they each need, Nussbaum argues, an

\textsuperscript{115} Ibid., 26-27.
ample threshold of adequacy below which a person’s life will be judged failing the minimum standards of justice. Societies should aim to get people above this threshold and in such a way that they feel secure in each capability and can count on it for the future.\textsuperscript{116} Threshold specification should take account of both cultural and practical concerns. The capabilities are defined in a general way deliberately to leave space for states to elaborate and enact them by drawing on their distinctive histories and traditions. By way of illustration, Germany may restrict anti-Semitic materials in view of its experience of Nazism, while the U.S. may be more permissive of hate speech under its strong First Amendment guarantees. Developed nations may be pressed to provide internet and other communication technologies as central to genuine education and participatory democracy, while poverty-stricken nations may focus on securing elementary schooling and basic healthcare.\textsuperscript{117} The threshold should be set neither too high so no nation could meet its moral obligations, nor too low to cave in to the status quo and the currently feasible possibilities. The specification should be aspirational without being utopian, with recognition that articulating and committing to the ideal may in itself change what is possible.\textsuperscript{118} Whether the threshold calls for equality of distribution depends on the nature of the capability. Some capabilities, such as political entitlements, are clearly oriented toward equality. It would be unjust to diminish some group’s voting power by half or penalize some religious bodies and not others for observing their holidays. Other entitlements are less amenable to claims of

\textsuperscript{116} Nussbaum, \textit{Creating Capabilities}, 43-44.
\textsuperscript{117} Ibid., 108.
\textsuperscript{118} Ibid., 40-43; Nussbaum, “Capabilities, Entitlements, Rights,” 27.
equality and instead target adequacy. Not everyone has to have the same living accommodations, for example. Secure and livable housing may be sufficient.\textsuperscript{119}

Capabilities belong primarily to individuals and only by extension to groups. Justice aims at creating capabilities for each person as an end and shuns using some people as a means to collective capabilities. Group identities and loyalties should be respected, but not at the expense of denying a person’s fundamental capabilities. Group-based policies can be warranted only when they aim to benefit individuals, like in the case of affirmative action policies.\textsuperscript{120}

The capabilities are also heterogeneous. No one capability can be replaced by a greater quantity of some other capability or life good. You cannot compensate restricting someone’s freedom of movement by overeducating or overfeeding them. Each capability is indispensable and distinct in the character of its contribution to true human functioning. Whenever capabilities are in tension and practical constraints prevent guaranteeing some of them, the choice needs to be seen as a “tragic choice”\textsuperscript{121} rather than as a simple cost-benefit trade-off. Since each capability is intrinsically valuable, some moral wrong or loss that no person should bear needs to be recognized with a view toward eliminating or minimizing such tragic conflicts and their casualties in the future. For example, when women are pressured to give up employment to care for their children, the government should see their plight as a sacrifice impairing their quality of life and work toward policies addressing their dilemmas, for instance, by providing adequate family leave and child

\textsuperscript{119} Ibid., 40-41; Nussbaum, \textit{Frontiers}, 292-295.

\textsuperscript{120} Nussbaum, \textit{Creating Capabilities}, 35.

\textsuperscript{121} Ibid., 37.
Solving such conflicts calls for a holistic view of capabilities. Each capability should be considered not only individually, but also in combination with the others. One should examine how the capabilities link with one another and affect the life of the person as a whole, how supporting some and neglecting other capabilities corrodes or promotes the rest, for instance, how domestic abuse imperils not only physical health, but also emotional wellbeing, practical reasoning, and affiliation, or how meaningful employment contributes not only to material sustenance, but also creative freedom and communal engagement.\textsuperscript{123}

While the central capabilities are integral to flourishing, people should be given freedom to engage them as they see fit. Nussbaum stresses that capability, rather than functioning, be the goal of justice at the political level.\textsuperscript{124} The government should provide resources and opportunities for citizens to lead a good life, but avoid foisting on them specific forms of achieving it. Valuable functionings should be viable possibilities rather than compulsory requirements. This is so because of the pivotal role that practical reasoning plays alongside affiliation in defining flourishing in a distinctly human way. All animals rely on their senses, feed themselves, move around, mate, and so on; human beings, however, value pursuing such functions by exercising choice and planning, and in relationships with others in bonds of mutual respect and responsibility.\textsuperscript{125} Personal engagement, control, freedom, and authenticity are highly valued features of human self-

\begin{itemize}
\item \textsuperscript{122} Ibid., 36-38.
\item \textsuperscript{123} Ibid., 44-45.
\item \textsuperscript{124} Nussbaum, \textit{Women and Human Development}, 86-95; \textit{Creating Capabilities}, 24-29; \textit{Frontiers}, 171-173.
\item \textsuperscript{125} Nussbaum, \textit{Creating Capabilities}, 39-40; Nussbaum, \textit{Women and Human Development}, 92; “Human Functioning,” 222-223.
\end{itemize}
realization. The most significant experiences and pursuits—discovery, play, work, persuasion, love or prayer—would not be the same if they were contrived or forced. As a general principle, persons should thus have access to capabilities, but be given space to choose on their own how to turn them into functionings. So one ought to have plenty of food for nourishment, but could decide to fast as a religious duty and hunger strike in a political protest, or there must be strong protection of leisure time and freedom of assembly, but room left for workaholic and hermitic lifestyles.

The principle of targeting capability rather than functioning has its boundaries though. Some capabilities are so vital to flourishing and constitutive of all the others that some government regulation of choice can be legitimate, most evidently in the area of health and bodily integrity. So governments can discourage use of alcohol and tobacco, promote wellness programs, require use of seat belts, and ban poisonous medicines, contaminated products, and cruel sports. Nussbaum also excepts political refrain from functioning for cases of “self-respect and dignity.” Persons should have no choice to enter into self-degrading relationships that deny basic humanity, as when, for example, someone decides to sell himself into slavery. Further, policies aiming at functioning can be justified for persons with severe mental impairments who often cannot make informed decisions.

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126 Nussbaum, Women and Human Development, 87-88.
127 Ibid.
128 Nussbaum, Creating Capabilities, 26; Women and Human Development, 91-92, 95.
129 Nussbaum, Frontiers, 172.
about their wellbeing and for children because they lack developmental maturity to recognize the complexity of human choices and their impact on future adult capabilities.¹³⁰

**Human Dignity**

The concept of dignity becomes more prominent in Nussbaum’s mature work on justice and capabilities. The capability threshold for the minimum conditions of justice becomes defined around a life worthy of human dignity—some capabilities are so central that a life without them does not befit human dignity. While the notion of dignity is vague and frequently employed on a whim, Nussbaum embraces its intuitive power across cultures. Generally, dignity points to something unique and valuable about humanity that commands respect. Dignity also evokes the idea of being treated as a moral equal and as an end, rather than as a means to others’ purposes. By relating dignity to the conditions of human flourishing, the capability approach, for Nussbaum, brings greater clarity and substance to what is unique, valuable, and respect-worthy about human beings and how they are to be treated as moral equals and ends. Capabilities affirm that certain human powers exert a moral claim for their development, that if they are stunted or inhibited, there is a sense of “waste and tragedy.”¹³¹ These powers or strivings are specific to human constitution and environment so if a turtle lacks opportunities to nurture human rationality and expressiveness, there is no indignity and indignation, and if a human being does, there is. Drawing on the Aristotelian idea of seeing “each thing flourish as the sort of thing

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Nussbaum links dignity to the species norm of flourishing. To have dignity is to claim that one be treated according to the characteristic forms of one’s agency, their valued capacities and inexorable needs. Humans have their own life activities eliciting characteristic “awe and wonder” and aiming for realization, and animals have theirs. There is thus human dignity and animal dignity, and each calls for distinctive respect.¹³³

Nussbaum recognizes that the notion of capabilities invites thought experiments about which form of life has greater dignity across species. In this vein one may rank the intelligence of a higher animal and of humans with impaired cognition to question their preferential treatment. Such moral calculus is deeply misguided for Nussbaum, as it fails to grasp the holistic and species-specific nature of capability and flourishing. Any individual capability must be understood in view of how it fits into the overall way of life of a given species. Each capability is distinctive by virtue of its biology and environment, in how it is formed within an organism and cultivated in a social habitat alongside other capabilities. Comparing how a cognitively impaired person performs certain mental tasks versus some animals is qualitatively different from morally evaluating his capabilities and needs in view of his life as a whole, given his particular constitution, life functions, and relationships with mates. While this person may not be able to reach the same level of cognition or other capabilities as some of his peers, his flourishing, in whole and in parts, would still be distinctly human. He could cultivate friendship, empathy, romance, art, and many other capabilities best, and perhaps only, alongside other humans who could organically discern

¹³³ Nussbaum, Frontiers, 346-347.
and engage his needs and pursuits. He would not be able to develop fully, in comfort and
harmony, among, say, chimpanzees or dolphins. In evaluating and prioritizing what is owed
a human and an animal, we must thus examine not only the level of respective capabilities,
but also the contexts for their nurture and functioning.  

Nussbaum emphasizes the variegated and material character of dignity. Stoic and
Kantian views make a sharp split between the animal and rational parts of humanity and
focus on the worth of practical and moral reason in each person. This focus is intended to
lift humans above nonhuman animals seen as irrational and, in the case of Stoics, also
protect dignity against the caprices of fortune, for as long as a person follows virtue she is
deemed complete, even if the whole world turns against her. Nussbaum’s capabilities
approach defends the Aristotelian/Marxist account of dignity that sees human animality
and rationality in organic unity, conceives reason as deeply embedded in the material
components of the self, and emphasizes the plurality and corporeality of life activities for
human thriving and claim to dignity. Our wellbeing and worth cannot be reduced to any
single capacity or the active dimensions of our agency. We are temporal, vulnerable,
dependent beings who stand in asymmetrical relationships to life circumstances and one
another. We flourish in manifold ways and can reciprocate and merit respect, not only
when being active and productive, but also when being passive and needy. Need itself holds
meaning for a complete, fulfilling human life. A totally free, independent, self-sufficient

134 Nussbaum, Frontiers, 192-193; “Human Dignity and Political Entitlements,” in Human
Dignity and Bioethics; Essays Commissioned by the President’s Council on Bioethics
135 Ibid., 355. On the Stoic and Kantian conceptions of dignity and virtue, see, “Compassion
and Terror,” 17-23.
person is a phantom. Our substantive impairments, physical or mental, have no more impact on our humanity and claim to a dignified life than do our ordinary foibles and flaws. As long as we retain a major group of central capabilities—which Nussbaum notes we do not in a persistent vegetative state and anencephaly, as examples—our humanity is present, capacity for flourishing is intact, dignity is inviolable, and respect is due.

While adversities leave our claim to dignity impregnable, they can violate our possession of a life worthy of dignity, despite what the Stoics claim. Nussbaum quotes Martin Luther King Jr. that dignity can be like “a check that has come back marked ‘insufficient funds.’” Human capabilities are dynamic rather than static; they strive for realization in pursuits and relationships that external conditions can thwart and harm. The two basic forms of dignity violation correlate to the notions of internal and combined capability. Laws, customs, economies, families, state institutions may impede persons in exercising their developed internal capabilities. When this happens, for example in the denial of free religious practice, the thwarting can be like imprisonment, and forced conversion can be likened to “soul rape.” But negative conditions can also cripple or distort maturation of internal capabilities, as when a malnourished child develops cognitive deficits. A child is robbed of the possibility to cultivate a full range of human flourishing, and the thwarting is like cutting roots in a growing tree. Both situations show that respect for human dignity demands not so much a reverence toward some single feature unique to

136 Nussbaum, *Frontiers*, 159-160; 131-133.
humanity, but rather an active concern for creating conditions that help unfold and foster a
diversity of human capabilities.\footnote{Nussbaum, “Human Dignity,” 358-359; Creating Capabilities, 30-31.}

Countering Alternative Theories

To see the distinctiveness of Nussbaum’s approach, it is worth considering her criticisms of
major alternative theories for conceptualizing social justice and fundamental entitlements.
Two competing approaches take center stage: utilitarian and contractarian. The utilitarian
approach suffers from several problems, in Nussbaum’s view. First, utilitarians cannot take
account of respect for the separateness of persons. The focus on total or average utility does
not capture social inequalities and the wellbeing of individual citizens, especially from the
underclass. In fact, as long as policies enhance generic satisfaction of the populace majority,
they can ignore suffering of people on the margins. Even slavery and torture are set aside in
principle only because they are judged inefficient in maintaining social stability.\footnote{Nussbaum,
Creating Capabilities, 51; Women and Human Development, 61-62.} Second, utilitarians tend to aggregate not only separate persons, but also separate aspects of
welfare. The unitary conception of utility attempts to combine under the same metrics
diverse, incommensurable goods. Sucking on a lollipop, kicking a soccer ball, earning a
university degree, and volunteering at a charity are all nestled on the same, linear scale of
satisfaction. A utilitarian framework does not allow for regarding some practices as more
intrinsically valuable than others and as resistant to trade-offs.\footnote{Nussbaum, Creating Capabilities, 52-53; Women and Human Development, 62.} Third, utilitarianism
underrates freedom, seeing it only as a means, rather than as both a means and an end, to a

140 Nussbaum, “Human Dignity,” 358-359; Creating Capabilities, 30-31.
141 Nussbaum, Creating Capabilities, 51; Women and Human Development, 61-62.
142 Nussbaum, Creating Capabilities, 52-53; Women and Human Development, 62.
flourishing life. Prizing pleasure as the ultimate good, utilitarians do not probe and care deeply about how a state of pleasure is achieved. Nussbaum appeals to Robert Nozick’s “experience machine,” an imaginary device that lets you enjoy the pleasure of varied activities, like dining, learning, or romancing, without actually doing anything. If someone were to prefer being hooked to such a machine, utilitarians would have no substantive arguments against that preference, even though most of us would find such an option existentially askew and choose real life experiences, whether they succeed or fail.143

Nussbaum’s fourth critique of utilitarianism focuses on the social malleability of satisfaction and helps explicate the substantive idea of human flourishing behind her view of justice. She draws on the work by Amartya Sen and Jon Elster on adaptive preferences showing that people adjust their choices to match what they deem is either available or appropriate in their life circumstances.144 A person can grow indifferent to or learn not to desire goods that society makes inaccessible for certain genders, ethnicities, or classes. Such adaptations occur even with the experience of physical wellness. Sen has found that widows and widowers in Bengal rate their health differently after losing their spouse. Widowers report numerous ailments as they had grown accustomed to their wives’ doting and pampering, whereas widows, whom doctors assess to be doing much worse, hardly complain, for cultural mores question their very existence after their husbands’ passing.145 On Nussbaum’s reading, utilitarian theory is unfit to contest morally such adaptations and the unjust status quos they perpetuate. It can pin its hope on education by informing

143 Nussbaum, Creating Capabilities, 55-56.
144 Nussbaum, Women and Human Development, 136-140.
145 Nussbaum, Creating Capabilities, 54-55.
desires and on democracy by instituting fair procedures, but even such efforts may be inadequate, given how deeply some choices are internalized when persons are deprived and exploited.\textsuperscript{146} She claims that only a substantive account of the good life can credibly insist on the justice of certain values and practices when a whole culture, including its marginalized groups, resist their cogency and implementation. If desire was completely malleable and adaptive, any order sustained by mutual consent and overall satisfaction could be affirmed as fully just. The idea that self-evaluation may be distorted and wide social consensus unjust is plausible only if one insists that “the human personality has a structure that is at least to some extent independent of culture, powerfully though culture shapes it at every stage.”\textsuperscript{147} A robust concept of justice must have a sense that a person cannot be reasoned out of certain elements of the self, such as requirements of nourishment, safety, health, affiliation, practical reason or freedom. These must be seen as enduring features of the human condition that no cultural shaping can discard, but only obscure and diminish.\textsuperscript{148}

This substantive conception of flourishing does not entail benevolent paternalism; respect for choice and practical reasoning is still paramount. But it does imply that governments and other actors can incentivize programs and practices vital to basic justice in both domestic and international contexts, and they can persist in good faith, even in the face of indifference or resistance. Nussbaum gives the example of women villagers in an Indian desert who had for long been skeptical about a government project to promote

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\textsuperscript{146} Ibid., 83-84.
\textsuperscript{147} Nussbaum, \textit{Women and Human Development}, 155.
\textsuperscript{148} Ibid.
\end{flushright}
female collectives, thinking it would lead nowhere and meet only hostility from their husbands, before the volunteers persisted and the women found their meetings self-empowering. Women and other groups can still prefer traditional lifestyles, for example, those centering on family and deference to social hierarchy, but usually, once the full benefits of enabled choices are experienced, the persons care deeply about this preference including genuine alternatives.\textsuperscript{149} Thus, some modern Muslim women in Pakistan regret renouncing veiling, but still insist that the practice be voluntary and that the basic issue boils down to men learning to keep their egos in check.\textsuperscript{150}

Nussbaum’s critique from adaptive preferences also applies to contractarian theories of justice if they exclude a substantive notion of flourishing, though she does not level the critique explicitly herself. Contractarianism seeks to remedy the pitfalls of welfare utilitarianism by setting up fair conditions of cooperation to which all reasonable parties would consent at the outset without knowing in advance their privileges and interests. Nussbaum’s discussion, however, makes clear that consent and its terms of procedural fairness are also liable to the machinations of power and self-interest. Groups habituated to helplessness and privation cannot always seek out and claim what may be rightfully theirs. Some unjust arrangements may be so pervasive and deeply ingrained that no party can discern which primary principles of fairness should apply to all citizens, and in what contexts and ways. If rational consent is the final arbiter of truth and legitimacy, it is difficult to avoid reduction of justice to the reigning status quo. Genuine moral fallibilism must include the idea that all reasonable conversation partners may fail to grasp what is

\textsuperscript{149} Nussbaum, \textit{Women and Human Development}, 41-43.

\textsuperscript{150} Ibid., 153.
just, and that can be possible only if rational consent is not seen as self-enclosed and self-legitimizing.

Nussbaum’s explicit critique of contractarianism focuses on the conception of agency and cooperation underpinning the impartial moral viewpoint for conceiving the terms of fairness. She commends the general impetus to seek moral clarity apart from morally irrelevant advantages, of wealth, status, gender or race. In designing the morally neutral vantage point, however, social contract theorists assume that people make a compact primarily for mutual advantage and under relative equality of mental and physical prowess. Persons are persuaded to renounce their individual advantages because no one is seen as powerful enough to enforce stable domination of others. Beneficence or altruism are excluded as a primary rationale because the theory aims to function on minimalistic, uncontroversial principles.\(^{151}\)

Such a conception is problematic on several scores for Nussbaum, the most important of which for our purposes concern treatment of persons with severe disabilities and obligation of powerful toward developing nations. The framework of relative equality and mutual advantage cannot account for equal respect of persons with extreme cognitive and physical differences, given their plainly unequal needs and powers. In fact, the former are excluded from joining the compact because they are viewed as incapable of rational articulation and consent.\(^{152}\) The drastic lacks and lopsided contributions of developing countries also make global justice precarious if moral rationality is pinned to self-regarding

\(^{151}\) Nussbaum, *Frontiers*, 26-35.

\(^{152}\) Ibid., 14-16, 33.
motives. Nussbaum argues that to be credible social contract theory needs an anthropology stressing humanity’s shared uneven vulnerability. Illnesses, hardships, and challenges of all kinds afflict us all throughout lifespan, many from beyond our choice and responsibility. Their erratic reach inexorably binds us to relationships of asymmetrical reciprocity. We cannot take full stock of our struggles, why we suffer them and how we benefit from and contribute to their collective management. Consequently, the varieties of temporary or lifelong privation, impairment, and dependency characteristic of our normal development should be seen as contiguous with the frailties of severely disabled persons. The special care and resources they need is of a piece with the extra support we all may require at different periods, most palpably in infancy and old age. Similarly, the challenges citizens of impoverished nations face are commensurate with the ebbs and flows wealthy nations have weathered in their development.

Further, a person must be regarded as a deeply social and political being who draws profound meaning and fulfillment from relationships with others. Our sociality, our shared vulnerability to harm and shared striving for good, engenders intrinsic appreciation of moral concerns, most notably love, compassion, and justice. Through acts of giving and receiving, in family, friendship, romance, work, or citizenship, we learn to value mutual goals and responsibilities, to identify with others’ needs and aspirations, to give each one their due, and to see their welfare as part of our own. Be they often tenuous and inconstant, our other-regarding virtues make it possible and rewarding to seek others’ wellbeing, even

\[^{153}\text{Ibid., 18-21.}\]
\[^{154}\text{Ibid., 87-89.}\]
\[^{155}\text{Ibid., 93.}\]
when ignoring or dominating them would be much easier. Altruistic motives, for Nussbaum, should be viewed as indispensable as prudential ones to understanding and shaping human conduct. If they are left out of constituting human agency, as in most accounts of contract theory, the kind of sacrifices required to foster justice for persons and nations in dire lasting need are difficult to explain and sustain. The contents of justice we can reasonably consent to in the original compact would be rather thin if we have low trust in others’ capacities for justice, if we see their primary drives animated by maximizing personal utility. What we can rationally assent to as ideal for practical aims hinges on what we reckon other parties can realistically comply with. Thicker benevolence as a matter of justice thus requires higher trust in human capacity to find self-expenditure compelling and fulfilling. Mutual advantage by itself can yield very parsimonious justice.\textsuperscript{156}

\textit{Capabilities and Human Rights}

Nussbaum says that capabilities map out well to the framework of rights as fundamental moral entitlements. In fact, she views her take on capabilities as a species of the human rights approach to justice. She observes that the rhetoric of human rights has broad use and appeal across the globe. Its chief accomplishment for her is highlighting that all people have certain urgent moral entitlements irrespective of what their society has done about securing them. The language of rights stresses that these entitlements have trumping

power over collective welfare and that no society is fully just unless each of them is guaranteed. Rights also focus on autonomy, underscoring that flourishing should not be imposed, but instead be cultivated as a genuine choice. As influential as rights rhetoric is, its theoretical insight is rather opaque, by Nussbaum’s lights. Rights theorists disagree and waffle over fundamental questions. What is the basis of rights—is it rationality, sentience, self-awareness, or just plain existence? Are rights prepolitical or products of law and polity? Can groups possess them as well, or only individuals? Do rights always correlate to duties and require an entity that can fulfill those duties? What is a right to—to certain forms of treatment, levels of welfare, resources to follow one’s private interests? The capabilities approach, for Nussbaum, offers clear answers to these thorny and contested questions. Human rights theories are often not fully integrated, and the capabilities approach seeks to address that drawback while explaining the underlying motives and overall goals of justice.

Nussbaum observes that capabilities discourse has the advantage of being closer to everyday concerns and ways of thinking. The rhetoric of rights often comes across as too abstract and more germane to legal and philosophical theory. People find it more natural and practical to consider moral claims in terms of what they value and are able to be and do. The lexicon of capabilities does not require someone to be well-versed in theory or educated, and it can be more readily understood and adopted across cultures. She notes


158 Ibid., 97.

159 Nussbaum, Creating Capabilities, 63; Frontiers, 285.
that when global development activists use capabilities language in their work, local populations do not view it as foreign and foisted; the language seems organic and responsive to their needs and sensibilities. In the context of colonial history, the framework of capabilities is then less likely to be seen as a Western construct imposed in disregard of local traditions. When political entitlements are conveyed as rights in international laws and charters, capabilities language makes it much easier for individual nations to grasp what it means to possess an entitlement and implement it in relevant contexts. The nations can draw on their own history, culture, and practical wisdom to make sense of what rights demand and how they are to be enacted. Capabilities especially help explicating de jure and de facto protections of human rights by insisting that entitlements are honored only when persons are empowered for relevant functionings and that significant reforms are often needed to move the disadvantaged above the adequate threshold.160

Nussbaum marks out two areas where the capabilities approach is of particular relevance to critiquing rights talk. In the contemporary ‘neoliberal’ tradition, rights are often conceived as “negative liberties,” as entitlements that individuals achieve on their own without external interference. As such, rights are predominantly viewed as injunctions against state intrusion. As long as the state abstains from forcing its will on the private interests of its citizens, basic rights are seen as secured. Moving into the terrain of positive liberty, of promoting equality or common good, is courting the dangers of paternalism and tyranny. Nussbaum notes how the U.S. Constitution is susceptible to this minimalist construal of the role of government: “Congress shall make no law respecting the

establishment of religion, or prohibiting the free exercise thereof; or abridging the right of
the freedom of speech, or of the press... No State shall make or enforce any law which shall
abridge the privileges or immunities of the citizens of the United States; nor shall any State
deprive any person of life, liberty, or property, without due process of law...." These negative
locutions have constrained American jurisprudence and politics in conceptualizing how
private, non-state actors can also infringe on citizens’ fundamental entitlements.\textsuperscript{161}

By contrast, the capabilities approach makes plain that securing a right involves
affirmative measures, that basic liberties require nurture from community and law. To
guarantee a right to freedom of speech, assembly, worship, and others is to enable a person
to choose and pursue these freedoms according to concrete norms that require supporting
relevant capabilities and fitting venues for exercising them. Varied obstacles besides state
despotism can stand in the way of this enabling: cultural bigotry, corporate greed,
environmental disaster, institutional bureaucracy—and for each one some government aid
can be necessary. Nussbaum draws special attention to the injustices women and girls
suffer when the neoliberal framework of negative liberty proscribes state interference in
family matters, deemed a sacrosanct private sphere. The capabilities approach shuns sharp
public-private distinctions and recognizes how inequities suffered inside the family—
domestic abuse, marital rape, unpaid household labor, material and educational
inequalities—can amount to violations of fundamental entitlements and demand the same
protection from the state as other human rights.\textsuperscript{162}

\textsuperscript{161} Nussbaum, “Capabilities, Entitlements, Rights,” 31; \textit{Frontiers}, 286-287.
\textsuperscript{162} Nussbaum, “Capabilities, Entitlements, Rights,” 32-33; \textit{Frontiers}, 290.
A related problem in the human rights tradition is the divide between the so-called first and second generation rights: political and civic versus economic and social. The distinction seems to imply that political and civic entitlements have no economic and social conditions. The capabilities approach contends otherwise. Nussbaum says that when you reflect on how persons achieve capabilities, you cannot help seeing how debating, voting, or campaigning are influenced by health, literacy, or finances. She construes the whole distinction spurious, as all entitlements entail material and institutional prerequisites. For example, education is valuable in itself, but it is also a must-have for meaningful exercise of political rights. Domestic violence harms the body, but also compromises freedoms of movement, speech, and affiliation, among others. Political and economic rights are invariably interdependent. Nussbaum notes that in many countries political influence is skewed by the market and power elites and that genuine social reforms there are impossible without addressing economic inequalities.163

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Nussbaum’s capabilities approach gives insight into how human rights can be universally binding as well as embrace transcendent import without being timeless. The approach clarifies that human beings form their view of justice by evaluating the conditions of their flourishing through time. This evaluative essentialism underscores both human finitude and transcendence. Human beings are bound by certain invariable limits and have to think of flourishing as tied to these limits. We are mortal, we require food and shelter, we are

unable to divine our distant future, we need others for comfort and fulfillment. Whatever new forms of life we envision, we have to take account of these ineluctable features of our agency and functioning. Whoever proposes ways of life that do away with these limits or undermine the needs they signify has to be viewed with suspicion. If some visionary promises material prosperity and emotional gratification confined to virtual reality apart from genuine human connection, we will take his musings as a pipe dream. On the other hand, the human being is self-transcendent. We are capable of engaging and discovering the world afresh, envisioning new pursuits and forms of life, and creating original meaning and value. As we thus develop we may find that certain practices we had once thought were practically attainable for the few are now feasible for everyone, or that certain public goods can be offered at a higher level than they could have been before. For example, advances in medical science have allowed us to demand higher standards of healthcare as a basic right, and the growing complexity of human pursuits coupled with technological progress has made elementary education a global requirement of justice. In this vein, one may envisage a future where higher education is likewise promoted as a fundamental entitlement. Some argue we already live in a world where higher equality of material self-sustenance should be an obligation on global community, with developed nations contributing more of their wealth. Of course, a dystopian future is also imaginable where drastic scarcity and chaos compel us to modify some rights that we now take for granted.

Nussbaum’s framework allows us to be humble and hopeful. We should not seek to create a future dispensing with our finite needs and abilities, but we should also be open to new possibilities of flourishing that may challenge what we have long thought is minimally just. Human search of the good life is open-ended. We cannot know and plan everything
once and for all. Our time, place, and self-interest limit us, creative freedom and compassion expand our horizons. Justice is an ongoing journey and struggle. She offers an evocative passage from Aristotle to convey this humility and hope with which she also seeks to proffer her insight. “So much for our outline sketch for the good. For it looks as if we have to draw an outline first, and fill it in later. It would seem to be open to anyone to take things further and to articulate the good parts of the sketch. And time is a good discoverer or ally in such things. That’s how sciences have progressed: it is open to anyone to supply what is lacking.”

Nussbaum’s capabilities approach does not offer a complete theory of justice and rights by its own account. Justice is not exhausted by the central capabilities. Many questions remain unresolved. The most obvious is what to do about when you move persons above the adequate threshold of each capability. Does basic justice end there? Nussbaum provides some guidelines for thinking about this question but does not address it in any systematic or detailed way, though, she hopes, she may do so in the future. The approach’s primary goal is to lay out a theory of fundamental moral entitlements, to explain how they are grounded and how they can be justified and implemented globally. It purports to do so without appealing to any religious or metaphysical beliefs. The guiding idea is that justice and basic rights center on human flourishing and persons’ capacity to achieve it. In the next three chapters, we will assess whether the approach succeeds, what its limits and possibilities may be in light of the criticisms developed by religious critics in the Introduction.

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ULTIMATE MEANING

Let’s recapitulate why a metaphysics insisting on ultimate meaning is “ineliminable” for the ethics of human rights according to a religious outlook. Metaphysicians inquire into what is really real, what the nature of the universe—its origins, order, and progress—is like. A religious metaphysicist sees the universe as purposeful and benevolent rather than accidental and neutral toward human life. Reality has a definitive pattern for human flourishing. Two ideas are key for the normativity of ethics in this outlook. First, the world points to enduring life goods that human beings need to attain to thrive. If these goods were not there, people would be unable to cooperate, ever disagreeing and contending against each other. Second, fairness and altruism are constitutive of human agency. Human life is so ordered that seeking life goods in one’s own life is bound up with all others’ life goods. One cannot thrive apart from seeking others’ thriving, be they near or far, allies or foes. We saw Perry contend that only a religious worldview which sees reality as “ultimately meaningful” and responsive to human “deepest yearnings” could authenticate these two ideas in grounding human rights ethics. In this chapter we will consider how these issues and convictions can be construed from the capabilities approach.

Enduring Goods

As we saw earlier, while Nussbaum eschews espousing any one conception of metaphysics, human nature, or comprehensive good, she is committed to the idea of essentialism. There
are certain permanent features of human experience that we discover by examining what it is like to be a human rather than another kind of agent. As we explore these features and consider how they contribute to our flourishing, we begin valuing certain capabilities, practices, relationships, and communities and their attendant goods, norms, and virtues. This view certainly takes human life to be a meaningful—that is, reliably norm-generating—source of moral knowledge. Our experience is not haphazard or amorphous; it has a determinate shape with specific boundaries, necessities, and potentialities. In ethical theory, this outlook is often termed moral naturalism to highlight the idea that moral inquiry takes its normative cues by considering the distinctive and valued components of human functioning. What Nussbaum stresses is that this naturalism is shot through with human evaluation, not some external viewpoint or disinterested scientific inquiry. We cannot look at ourselves from beyond ourselves, but only from within our embodied experience and reason. When someone suggests a norm to come from an external source, we still have to assess it internally, how it accords with our existing experiences and normative beliefs. The process of evaluation is from the outset driven by moral concerns rather than dispassionate facts. We do not just look at what most people are naturally prone to and capable of and then determine that to be normative. To be sure, certain facts bind our experience: we feel pain and pleasure, eat, walk, reason, communicate, and so on. Still human behavior is varied and conflicting. We do many things that harm us and others, like cut veins or seek revenge when betrayed. What we are evaluating is not what we do, but what we find meaningful and significant through time, what norms and values allow us to live responsibly and rewardingly alongside others. This process is long, dialectical, multilayered, revisable, circuitous. We may call it open-ended essentialism. It is also
plurallistic. Human life offers varied ways of realizing and harmonizing valued capabilities in responsible ways. In fact, some capabilities are incommensurate and may entail a tragic loss whatever the choice, while others can be reconciled only by either pragmatic or benevolent compromise, with rational persuasion unfit to the task—both within a single comprehensive outlook and among competing ones.\textsuperscript{165}

Essentialism so conceived is realist, not relativist. Prized capabilities are real powers that human beings have and need to foster in order to live flourishing lives as recognizably human agents. Denying their importance is depriving yourself of reaching your full potential as a person in various practices and affiliations. This point is most evident when reflecting on Nussbaum’s discussion of adaptive preferences.\textsuperscript{166} Collective

\textsuperscript{165} For a compelling account of the distinction between moral relativism and moral pluralism, see William Galston, \textit{Liberal Pluralism: The Implications of Value Pluralism for Political Theory and Practice} (Cambridge, UK: Cambridge University Press, 2002), especially 29-35.

\textsuperscript{166} Nussbaum, \textit{Women and Human Development}, Ch. 2. This paragraph on the relationship between flourishing, evaluation, and desire gives insight into the “metaphysics” of Nussbaum’s moral outlook. “If people’s desires were really adaptive through and through, this [moral skepticism] would be a powerful retort – although it would surely leave us wondering what we could appeal to, given that we have said that choice and desire are very intimately linked. I believe, however, that the human personality has a structure that is at least to some extent independent of culture, powerfully though culture shapes it at every stage. As the Greek philosopher Sextus Empiricus wrote, ‘In the person burdened by hunger and thirst, it is impossible to produce by argument the conviction that he is not so burdened.’ Desires for food, for mobility, for security, for health, and for the use of reason – these seem to be relatively permanent features of our makeup as humans, which culture can blunt, but cannot altogether remove. It is for this reason that regimes that fail to deliver health, or basic security, or liberty, are unstable. My stability argument relies on this view of the personality, as not thoroughly the creation of power. Of course, we still have to recognize that there is a considerable space for social deformation of desire: it is for this reason that we rely, primarily, on an independently justified list of substantive goods. But we give desire the ancillary role I have given it, because we think that it does have a structure that is in at least some ways more robust than social whims and fads. This structure contains things that are problematic and bad, as well as things that are good: aggression as well as the need for food, for example. So we do not read off norms from the
consensus on preferences, as in utilitarianism, or on primary principles of justice, as in contract theory, does not always obtain objectively fair practices. We can adapt to abusive and impoverishing social arrangements in such a way that we may not know what we could prefer as a viable and fulfilling choice or recognize which impartial norms should apply to all persons. Drawing on this insight, we can note that adaptive preferences can unfold not only in patently unequal polities, like dictatorships or oligarchies, but also relatively free and equal democracies. We can fail to know our true capabilities not only through deliberate oppression but also seemingly benign enculturation. For example, some groups may be deprived of exploring and recognizing their full flourishing through inadequate education and income or social stigma.

Such a fallibilist view is possible only if selfhood and flourishing are seen in both culture- and self-transcending terms. We develop and ascertain the valued components of our functioning through time in communal practices, but some communities may take longer than others to recognize and support these components adequately for all persons. Some goods and norms are thus independent of what our specific society may tells us: we can be talked out of desiring political freedom, racial equality, choice of sexuality, or gender parity, but genuine opportunities to flourish would still convince us otherwise over the longer arch of history. Further, we are free to envision new ways of thriving, and it sometimes takes time for others to develop and for us to recognize them as facts of human personality, even to the limited extent to which we do rely on desire. We still have to evaluate what we find, and ask whether it is worth including. This, again, is a strong reason to avoid trusting desire too much. But it is compatible with trusting it a little bit, as a guide to what politics should give people.” Ibid., 155-156.

responsible and worthwhile options. Kicking a ball in the dirt may seem like a waste of time before it grows into the most popular sport in the world, allowing for cultivating complex physical and intellectual skills as well as emotional and social virtues. To be alert to the demands and possibilities of a flourishing life, we thus need to mind both our finitude and our undue self-concern. We can miss what is genuinely good and fair by lack of experience and by entrenched prejudice, and these can feed into each other, as when our fear of reform generates willful ignorance about, say, climate change or conditions of poverty.

Human flourishing is an ongoing challenge to explore and assess what we are each and all capable of, responsible for, and can be fulfilled in alongside others.

Nussbaum offers an insightful critique of moral skepticism, ancient and modern. She shows how much of the time it seeks not intellectual integrity but existential equanimity.168 The skeptics insist on suspending belief to be at peace with self and reality whatever unfolds, to avoid disturbance born of commitment to determinate views and values. The ancient skeptics were often forthright about seeking tranquility, but their modern counterparts reveal this too in their allegiance to indulging free play with meaning (as in Jacques Derrida), reveling in professional expertise (as in Stanley Fish), maximizing utility (as in Barbara Herrnstein Smith) and economic aggregation (as in Milton Friedman), or leaving all decision making to majoritarian consensus (as in Robert Bork). Skeptical levelheadedness about value is achieved, Nussbaum argues, by loading the dice of persuasion toward universal agreement or unanimity; any contradiction and dissent is

proof that normative conviction is a phantom. Adjudication of tensions and differences is vehemently avoided as all moral evaluation is deemed subjective, fettered as it is by time, place, status, and interest. To modern skeptics, morals could be objective only if they could be refereed from the external, transhistorical viewpoint. As noted earlier, Nussbaum calls this attitude “a shame before the human.”¹⁶⁹ Some skeptics think this evaluative lightheartedness is liberating and empowering as, on their account, it should lead to embracing tolerance and avoiding paternalism. Yet, Nussbaum says, an attitude equating all sentiments and outlooks has no resources to recommend one viewpoint over another, not even itself.¹⁷⁰ If everything is just a game of shifting rhetoric, power, and utility, there are no stable grounds to prefer the learned over the smooth-tongued, the weak over the ruthless, the needy over the satiated. At the end of the day, human experience has its own way of handling sophistry and disbelief. The ancient skeptic Pyrrho could praise the unperturbed content of a pig amid panic on a ship battered by storm; he could also approve of admiration for ignoring pleas for help while his colleague Anaxarchus was drowning in a swamp; yet when attacked by a ferocious dog, he couldn’t help exclaiming in fear, “How difficult it is entirely to divest oneself of the human being”;¹⁷¹ and neither could he ignore insults to his sister Philista, “It was not in the case of a helpless woman that one

¹⁶⁹ Ibid., 740.
¹⁷⁰ Allen Wood also offers a trenchant analysis of skeptical contradictions in “The Objectivity of Value,” *New Literary History* 32, no. 4 (Autumn 2001): 859–881. The first part of Jeffrey Stout’s *Ethics After Babel: The Languages of Mortals and Their Discontents* (Boston: Beacon Press, 1988) offers for me the most astute analysis of moral relativism. Even the relativist gadfly Richard Rorty offered the following praise for the book in his endorsement blurb: “The most imaginative, thorough, and enlightening discussion of moral relativism I have read.”
should make a demonstration of one's indifference.”

Dispensing with the harmful, unjust, and unreasonable is very difficult when your own flourishing or of those dear to you is at stake.

**Fairness, Altruism, and Moral Flourishing**

How fairness and altruism may fit into human life and the normativity of ethics according to the capabilities approach may best be explicated by reflecting on Nussbaum’s critique of contract theory. Contract theorists see persons as free, equal, and independent and as entering the social compact chiefly for mutual advantage. The individual is viewed as driven primarily by prudential self-regard, as scheming to maximize his personal good. Moral concerns are not constitutive of his agency, remaining extrinsic to his basic motivations. Principles of justice are thus often found at cross purposes with persons’ fundamental goals; they accept impartial norms rather grudgingly knowing that otherwise no stable society guaranteeing their general welfare would be possible. They contain their self-interest prudentially to secure its success through indispensable social structures across a lifetime. This minimalism in the motives of justice is preferred because not much more can be expected of human beings as they are. Compassion and benevolence are deemed fitful companions of fair cooperation. Even those theorists, for example Locke and Rawls, who recognize that moral motives have the potential to have distinct integrity and potency do not see them as inherent to selfhood.

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172 Nussbaum, ibid., 744.

The capabilities approach, in contrast, sees human beings as vulnerable, interdependent, and in asymmetrical relationships of reciprocity—and as such deeply social and political and animated by moral concerns at their core. Our agency is so intimately intertwined with other people that we cannot help seeing our life, its meaning and fulfillment, apart from them. We cannot imagine how we can develop as persons, engage pursuits, and enjoy goods in isolation. Recognizing the inherent value of others for our thriving and unable to account for each others’ unequal needs and contributions in achieving this thriving, we organically experience and nurture intrinsic interest in mutual wellbeing and moral norms underpinning it—in giving each other their due, sympathizing with others’ struggles and strivings, and committing to both reciprocal and self-expending loves. To be sure, the human self is animated by various motives, with prudence and self-regard still integral to functioning, but intrinsic, rather than just instrumental, passion for moral concerns is still seen as constitutive of its agency, and recognizing this allows for both accurate scientific description and credible moral evaluation, for both explaining and assessing, predicting and guiding behavior.

Reflection on Nussbaum’s critique of contract theory reveals something very important about how our conception of justice, what we owe to each other and why, connects with our conception of anthropology, why we cooperate and how we flourish—something that even she neither makes fully explicit nor fully develops out of regard for

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174 Nussbaum, *Frontiers*, chs. 2-5 and especially 7.
political liberalism, the idea that norms of justice should steer clear of metaphysics, comprehensive good, and even human nature. Still we should fully engage this insight and it need not undermine Nussbaum’s concern for avoiding complete, unified theories of the real, the good, and the human.

When we think about moral norms, we take into account not only what is ideal but also what is practically achievable, not only what we ought to be compelled by but also what we are capable of being compelled by. We determine the contents of justice and conditions of their observance by considering what we can realistically expect ourselves and others to comply with. If certain ideals are recognized in theory but consistently ignored in practice, we adjust them for justice to remain practically normative. This viewpoint is usually taken to privilege the sober minimalism of contract theory that pins norms of justice to prudential interests to align personality utility with mutual advantage.\textsuperscript{176} Nussbaum’s analysis, however, shows that this minimalism of the human self, its motives and reasons for action, is so thin that the resultant justice becomes insufficient to address vital human concerns. It cannot explain and justify how we can assist persons lopsidedly unequal in their needs and abilities, those lacking capacity for rational consent, and distant impoverished nations that neither menace nor benefit us. In fact, as we think further, we note that this ethical minimalism cannot vindicate most actions defying prudential calculus, where compliance with justice is costly and unreciprocated and noncompliance is unenforceable and has no appreciable blowback, or where appeals to justice fall on deaf ears all around.

\textsuperscript{176} Nussbaum, \textit{Frontiers}, 34-35.
A contractarian would, of course, acknowledge the conflicts of justice with personal utility, but she would insist that with time persons learn to contain their self-interest and promote other-regarding actions prudentially, understanding that a culture ignoring fair cooperation leads to everyone’s ruin. Prudence teaches us to apply the impartial moral viewpoint in progressively more circumstances as we recognize what happens when we flout and heed it. The demands of justice, its contents and conditions of observance, gradually expand as we learn to appreciate the harms of noncompliance and benefits of compliance. Prudence is not perfect, but it is sufficiently informed by a history of past horrors and achievements to keep society stable, accountable, and on course toward relative improvement.\textsuperscript{177}

As important as this conception of prudence is to shaping our conduct, we can qualify its optimism. Contract theorists recognize that regular precepts of justice may not apply in circumstances of utter scarcity or utter abundance, but they may not fully consider what that recognition entails for formulations of justice in regular circumstances, given their sparing anthropology. Everyday life is full of scarcities and abundances straining prudential concern for mutual advantage toward rationalizing prudent indifference or

timidity: I cannot imagine anybody agreeing to assist in these circumstances considering the costs of success and risks of failure; these persons have plenty of resources to aid themselves, I know I would in their plight—helping them would only reinforce their helplessness; why should I care about this cruelty if no one else appears to care either and my stirring up would trigger fierce resistance? If prudence is all we have to motivate justice, our ideals—the norms we could reasonably consent to and persevere with—would be very thin. Why cut back on our current lifestyles to save natural resources for distant generations? Why work on economic reforms when the underprivileged accept their predicament? Why seek justice for ethnic or sexual minorities when they are quiet and harmless and the majority threatens violence to any potential reformer? Why intervene in a famine or genocide in a pariah nation whose devastation endangers no one?

Reflection on Nussbaum’s critique helps us recognize that prudential altruism can expand the substance of justice only if it can be conceived developing into a settled way of life where we value moral concerns not only instrumentally but also intrinsically, where we see our good as bound up with others, where we treasure other persons and pursuits with them for their own sake, even when snubbing or subduing them would be easier. Prudence has to be linked with benevolence in constituting and fulfilling the self to affect moral principles and commitments, to make justice thick in content and potent in imperativeness. If we are deemed to run only by mutual fear and utility, we will find hollow meaning in adhering to norms that our society consistently ignores or resists, or that imperil our material welfare and important life goals.

Some contract theorists in the mold of Kant would counsel that persons could recognize justice to have its own rational integrity and so could cultivate duty to it despite
tensions with personal happiness. The status and leverage of moral truths can be comparable to that of scientific truths. We can recognize that climate change is real even when that recognition may be inconvenient, for example, because we may lose our job in a coal factory or need to give up energy-intensive lifestyles. That belief is true irrespective of its usefulness to our other beliefs and values, and justifying its cogency in terms of other purposes would seem beside the point. Moral beliefs can have the same standing and sway. We affirm certain impartial moral norms when we reason about social cooperation ignorant of how each individual may stand to benefit under different circumstances. We realize that different biases and flaws can thwart these norms in practice. In that light we consent to strong institutions to enforce and nurture these norms and find it reasonable that society disciplines us when personal utility clouds our judgment or weakens our will. We do not let prudential temptations to detract from the normativity of impartial norms. This recognition of the rational integrity of moral truths is thus what can serve as the basis for thick claims of justice, for holding ourselves and others accountable to them even in

178 Kant offers the most forceful conception of this view: “Yet although the rational being might punctiliously follow these maxims himself, he cannot for that reason count on everyone else’s being faithful to them, nor on the realm of nature and its purposive order’s harmonizing with him, as a suitable member for a realm of ends that is possible through him, i.e., on its favoring his expectation of happiness; thus the law ‘Act in accordance with maxims of a universally legislative member for a merely possible realm of ends’ still remains in full force, because it commands categorically. And precisely in this lies the paradox that merely the dignity of humanity as rational nature, without any other end or advantage to be attained through it, hence the respect for a mere idea, ought nevertheless to serve as an unremitting precept of the will, and that the sublimity of the maxim consists in just its independence of all incentives, and the dignity of every rational subject consists in being a legislative member in the realm of ends; for otherwise it would have to be represented as subject only to the natural law of its needs.” Immanuel Kant, Groundwork for the Metaphysics of Morals, translated by Allen W. Wood (New Haven, CT: Yale University Press, 2002), 56-57.
times of serious hardship and widespread noncompliance. A given norm may indeed be rare, costly, and unrequited, but what it calls for in this specific instance is what we would espouse from the impartial standpoint.\textsuperscript{179}

We already saw earlier that this kind of moral reasoning can produce meaningful norms while avoiding collective adaptations to injustices and reducing truth to majoritarian consensus only if it is underpinned by a substantive account of the good life, its basic contents and conditions of attainment. A similar insight applies to its ideal of duty for duty’s sake in view of impartial justice. This ideal can be made fully meaningful only as part of determinate human flourishing. A categorical commitment to impartial justice is incoherent if human life is deemed indifferent or hostile to that commitment, if it cannot account for and substantiate its overriding and intrinsic value. The demand to treat others as ends in themselves is at odds with the claim that our everyday self cannot help engaging, desiring, and being fulfilled in them as mere means, that others at bottom remain an encumbrance on our good rather than its bedrock. To be sure, we can recognize the rational integrity of certain high-minded moral claims when we conceive them ideally, in the world as we would like it to be, but then we have to contend with the rationalities of our everyday pursuits, their goals and norms, in the world as is. If these pursuits were animated only by self-regarding drives resistant to objective evaluation of intrinsic worth, if moral duty could only place external demands but not reshape our agency—our

character and fulfillment—so we could experience others as more than rivals, tools, gadgets, props, foil, or deadweight, it would seem odd to ascribe to that duty existential primacy, say, ahead of prudential egoism, individual or collective. To prioritize the impartial viewpoint because I am pained by logical inconsistency, because I cannot burden denying something to others that I would demand from them?\textsuperscript{180} Unlikely and not unreasonable if the pains and burdens of personal or in-group good are deemed more acute and heavier or the desired advantages greater and more secure. I can recognize the necessity of being consistent in relationships that can benefit or detract from my welfare, but why would I privilege it with persons and groups with no positive or negative impact on my existence? There seems no coherent, plausible answer if the duty to impartial norms has no essential, organic relationship to my functioning and flourishing, to what I experience and value as a worthwhile life.

Let’s ponder a scenario where a disconnect between the duty to justice and our prudential self-regard can be especially stark, a case where moral compliance and reciprocation are absent altogether. Consider living in a society that views slavery basic to its order, with everyone embracing its necessity, including slaves who acquiesce to their inferior status and its disadvantages. What significance would the obligation to impartial fairness have for me? To begin with, to challenge the practices of my society, I have to believe that the majority can err about what is just, that the fact everyone is willing to be

\textsuperscript{180}Alan Gewirth seeks to reconstruct the moral viewpoint from the requirements of logic by explicating and dwelling on the “pain of self-contradiction” we end up with if we deny to others the same treatment we expect in identical circumstances. See \textit{Reason and Morality} (Chicago, IL: University of Chicago Press, 1980) and \textit{The Community of Rights} (Chicago, IL: University of Chicago Press, 1996).
treated as a slave if born a slave does not tell me everything about what is of true value, that impartiality is fallible and seeking truth requires more than synthesizing current sensibilities. Further, I have to believe that most of us, when dealing with life deeply and earnestly, do really care about objective norms of justice and see enacting them with others as vital to our sense of a good life and that those who lack this conviction could recognize it if reasoned and contended with—that our practices are not neutral to this reasoning and contending and that engaging others toward this conviction is meaningful and fulfilling, too. If I lacked this belief, my commitment to social reform would make little sense in this context. Why would I devote my life to a project whose value few or no one recognizes when pursuing it entails that I have to sacrifice many other life goals, that I may be resisted and threatened, that I may cause social upheaval, and that I am unlikely to succeed in my lifetime, if at all? My persistence can make sense only if I believe that human beings can and should be motivated by more than personal utility to live well, that my and others’ life had genuine worth if we sought to shape our individual and collective flourishing with objective values—that this shaping was not only cogent and not only prudential but also intrinsically rewarding. So we can, indeed, be compelled by the rational integrity of impartial norms, but as part of their connection to our search of the good, their central importance to our functioning and fulfillment. If in our experience moral duty was divorced from flourishing, from affecting our fundamental drives and imbuing our pursuits and relationships with special, preeminent worth, abiding by it when few if any discern and reciprocate its counsels, or when others can neither benefit nor harm our welfare, would seem meaningless.
To put it more forcefully—and this is what Nussbaum does not make explicit and fully push for—the idea of duty for duty’s sake, or for that matter any prudence-transcending moral concern, can be coherent and plausible only if moral flourishing as a way of life—seeking valuable goods through and alongside others—is seen as a “permanent feature” of the human condition. That is, like other central capabilities, moral flourishing is something our nurture and civilization can obscure but not erase. It is permanent or enduring not in the sense of being ineluctable or irresistible—we can shape our lives in differing ways and our conviction and contentment can remain constrained to the evaluative limits of this shaping. Rather moral flourishing is something that we can recognize as indispensable and most worthwhile when we reflect with integrity on the distinctive features and valued components of our functioning, what makes them possible and rewarding. That most of us intuit this is partly reflected in how we experience the claims of justice. We observe that adequately nurtured and fully functioning persons do not revel in being irrational and immoral; rather we are untruthful and unjust either by ignorance, inexperience, rationalization, or acknowledged bias or weakness. So for example, we can refuse helping someone because we may not realize they need our help, or we tell ourselves, rightly or wrongly, they do not deserve being helped or we are not in a position or have adequate resources to help, or we confess we would rather help someone else more dear or useful to us. We realize the conflicts and discontents of sticking with fair and benevolent norms, but we still wish to preserve their importance to our life, and not only prudentially to keep up appearances so others view us as trustworthy, but also as something that matters to our sense of living well, with earnestness and probity. To be sure, many of us are blatantly narcissistic, hedonistic, manipulative, vicious, aimless, and so
on. But we do not regard people living such lives to evaluate and engage them in earnest; such lives strike us as futile and worthless, brimming with absurdity and dysfunction, as well as conflicts and discontents of their own. In their own interactions these persons cannot help demanding fair treatment and expecting a society that punishes misdeed and rewards merit. So while indulging themselves they may bellyache about disloyal friends, talentless celebrities, unpatriotic athletes, crooked politicians, biased prosecutors, miscreant immigrants, fake media, ungrateful allies, incompetent legislatures, evil religions, rogue nations. They cannot help craving and opining about a life they evade. With commitments so incongruous, not only do they miss abiding content, mutuality, and esteem they so desire, they miss why they are so elusive. We are convinced that were they able to examine and follow their pursuits and relationships with integrity, they could recognize that moral concerns make everyday activities, at the very least, functional and can also be part of genuine fulfillment.

Following Aristotle, Nussbaum identifies among central capabilities two as primary—practical reasoning and affiliation—in that they underline the characteristic features and values of human functioning. Their exercise shows what human beings most cherish about their agency and wellbeing: our experiences and pursuits have significance through purposive reflection in rewarding relationships with others. If we connect this claim with our discussion, we may say that we exercise these primary capabilities optimally—in a way that allows us to engage the full range of human goods in a

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worthwhile way—by pursuing valuable practices with reflective integrity in fair and benevolent affiliations. We need not romanticize human nature to recognize this insight when someone approaches life earnestly to seek out worthy goals. Our daily experience is rife with recognition that pursuing genuinely worthwhile experiences in concert with and concern for others is central to a functional and fulfilling life, and that a commitment to this life not only guides but also reshapes and valorizes our drives and choices. Our pursuits organically prompt self-expending as well as transformative reasoning, valuing, desiring, and acting, given their rational and social—norm-driven, value-laden, and other-regarding—character. We do not affirm the first thing our mind perceives and grasps but probe deeper, aware that we may err in our judgments. Neither do we accept the first thing we desire or value but also probe deeper, to see whether a given striving can be met, reconcile with others, or yield to a greater one. We seek to know how things really are and what can truly fulfill us, not just what suits our immediate hunches and wants. We aim to live truthful and worthwhile, not just indulging lives. We seek veracity, authenticity, and excellence, not just validation and pleasure. Other persons are indispensable in this search, with our pursuits and goods interlocked with theirs. We depend on others for our varied and unequal needs amid seeking treasured life goods and we find deep meaning in meeting these needs and engaging these goods together. Our everyday life relies on others attending to their pursuits earnestly and responsibly, be they legislators, judges, nurses, journalists, plumbers, engineers, chefs, or fitness instructors—and doing this often without

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Nussbaum’s most extensive study of moral emotions and their role in human development and flourishing is found in *Upheavals of Thought*. Her thorough reflection on the role of moral emotions in political life, which we will examine in the fifth chapter, is found in *Political Emotions*. 
direct reciprocation, but out of respect for their profession and concern for those it serves. To be sure, just as people can enable and enrich our thriving, they can also thwart, burden, and complicate it, and often all this happens at the same time. And though we may find this admixture of experiences frustrating, we find that our lives are more secure and rewarding if we address our differences and discontents, not eliminate them by shutting or wiping out other persons, that fair and benevolent bonds are the most fitting and fulfilling—something we are compelled to aspire enacting and holding ourselves and others accountable to, through both nurture and discipline.

Let’s breathe a little life into this notional self. Nadia is a medical scientist set on finding a cure for a deadly disease. In her research she seeks out the best theory to interpret her observations; she looks for gaps, inconsistencies, alternative explanations, not settling for whatever analysis comes easiest or most convenient. She is fascinated with how bodies function, illnesses develop, medicines work, and patients heal, while engaged with the inner workings of her vocation—the knowledge, skills, and relationships required to master it. Nadia finds fulfillment in the fruits of her labor, the impact her discovery can have on scientific knowledge and public health. That someone may benefit from her work will bring her intrinsic satisfaction. She will appreciate recognition from colleagues and public, but she will not rest content barring real merit on her part and real gain to others. If she finds that her treatment harms patients, she will insist on stopping it despite protestations from the research sponsor, or if the treatment works initially but proves ineffective long-term, she will be disappointed even if others still praise her effort. Her research and her patients’ health have their own integrity for her and, if she had to choose one or the other, she would trade that praise for anonymous discovery. Further, Nadia
collaborates with colleagues not just so they massage her ego or do tedious tasks she dreads. She enjoys the very process of collaboration, the coordination of actions in conducting an experiment, the give and take of ideas, mutual commiseration with reaching an impasse and monotony of routine, the shared joy of eureka and crossing the Rubicon. She learns to relish her colleagues’ work, its demands and excellences, in itself, not only in how it contributes to hers. She may prize their insight or self-discipline, how they reason through quandaries or cope with frustrations and balance work with family and leisure.

Nadia’s students have the same regard. She mentors them not only to secure their esteem and support for the project. The very act of mentoring matters to her. She cherishes the sharing of knowledge and skill, the mutual wonder, and how the students’ frustrations, questions, or insights add something distinctive to the expertise. As she bonds with them, she cares about their own engagement with the profession, their own accomplishment as well as floundering in becoming a medical scientist. Their triumphs and setbacks become partly hers, as well. In Nadia’s introspective moments, when she ponders the aims and demands of her profession and life as a whole, she struggles with accounting for her contributions and debts to others, with taking full credit for her achievements and fully repaying her dues—be it with fellow scientists, past and present, or with countless other people in varied occupations on whom she depends and whom she serves. She finds that we all receive more than we can give back and give more than we can receive in return, and that giving has its own gaining, and receiving its own gifting. So she nurtures gratitude when registering her advantages or receiving help, and humility when helping others or observing their challenges. She sees how her understanding and partaking in what is worthwhile or bearable in each experience and activity—from the most mundane to the
most sublime: be it eating, playing, exercising, learning, working, worshipping, creating, loving or healing, grieving, regretting, despairing, declining, dying—depend on how we regard each other, how we approach our pursuits, and how our society functions as a whole. So she fosters concern for practices and communities that help us act earnestly, fairly, and compassionately for the sake of the common good. Nadia is no romantic, though. She notes how varied life goods and responsibilities clash, demand sacrifice, and occasion failure—and in a way that is at times difficult to make fully meaningful. While attending to research, she neglects friendships and recreation; while supporting family or pursuing hobbies, she may overlook civic duties; while caring for children, she retards career development; while complying with bureaucratic protocol or rules of collegiality, she may miss exciting and gainful research opportunities; while supporting one social cause, she may undermine a competing one. Still Nadia discerns certain salient ideals in her work and life that define who she is and what she deeply cares about. Of course, she is attached to her kin and zealous about their thriving. But she also realizes that she may be so invested in the integrity of her vocation, the wellbeing of her colleagues, or the public good that under certain conditions she could quit her job and risk her career and livelihood—if, for example, her collaborators were unfairly dismissed, her findings were compromised by a sponsoring institution, or the team was to be recruited by a rogue government. She hopes that she will have courage to stake her whole life for some of these salient ideals in desperate straits. If during warfare her superiors order that she use her research to develop biological weapons to intimidate the enemy’s citizens, she would rather face prison and death than obey their command.
Many a person wrestles with comparable experiences in different settings. When we evaluate what makes our relationships and practices workable and valuable, we detect in them various intrinsic goods and excellences and we recognize how seeking these goods and excellences in benevolent affiliations with regard for the common good would be constitutive of the most fitting and worthwhile way to live. It is because of this evaluative recognition that we consent to thick norms of justice and conceive them to be integral to our life. These norms point to the primary goods and virtues of our flourishing that we aspire to enact and find fulfillment in and that, as a result, we commit to holding ourselves and others accountable to—in our relationships, pursuits, and communities. We discern that this moral conception of flourishing includes some conflicting and incommensurate life goods; that some of the conflicts pose implacable dilemmas whose outcome may be tragic; that seemingly senseless sacrifice may be demanded of our material welfare or individual excellence, and that at times we fail abiding by this demand; that others may not share our ideals and responsibilities, take advantage of them, and disappoint our hopes; that we struggle with understanding and bearing with all this and sometimes doubt our overarching life values. Yet despite these conflicts, tragedies, sacrifices, failings, disappointments, and doubts, we also find ourselves unable to shake off the claim of moral flourishing over our life. Aspiring to shape our wellbeing alongside and through others’ wellbeing still strikes us as constitutive of the most distinctive and meaningful life for a human being. It is an aspiration that we find ourselves continually falling short and making full sense of and yet still compelled to enact and judge ourselves by.
It bears emphasizing that moral flourishing does not come to us as a wholly synthesized life project, with the self fully aligned with its pursuits and other selves.\textsuperscript{183} Our life goods and excellences are diverse and incommensurable. We often find ourselves torn between harmonizing personal welfare and accomplishment with others’ welfare and accomplishment; between loyalties to family, friends, or coworkers and institutional or public duties; between responsibilities to compatriots and citizens of other nations, or to our contemporaries and future generations. Pursuing any good and excellence intently requires focused attention to particular practices and relationships, and we tend to privilege doing this alongside people and communities more dear and meaningful to us, whose activities we find more personally engaging or whose overall vision of the good more closely matches ours. To be viable and vibrant, to avoid a stoic “death within life,”\textsuperscript{184} our flourishing needs adequate regard for personal excellence and welfare, a regard normally nurtured amid shared and reciprocated ideals. A self spreading itself thin in impersonal demands of impartial universality will struggle sustaining deep cultivation of virtues and contributing to, as well as benefitting from, others’ wellbeing in a substantive way. Still, with these tensions and partialities intact—that expose our many frailties and cause us many doubts—we cannot help aspiring to synthesize our commitments and expand our particularized circles of a flourishing life. We are impelled not only by prudence.

\textsuperscript{183} Nussbaum’s classic on the ambiguities and tragedies of flourishing and virtue is \textit{The Fragility of Goodness; Luck and Ethics in Greek Tragedy and Philosophy} (Cambridge, MA: Cambridge University Press, 1986).

\textsuperscript{184} For an insightful analysis of the Stoic moral conscience seeking to divest of particular attachments, see Nussbaum’s essay, “Compassion and Terror,” especially pp. 17-23.
Benevolence is also in the mix—a benevolence that is its own reward.\textsuperscript{185} Seeing that self-donative regard permeates our everyday life, that we are continually, if waveringly, its unmerited beneficiaries and fulfilled participants, we are compelled to aspire enacting it in less familiar and intimate settings. We discover that delving into the details of more distant others’ flourishing, their needs and strivings, enriches our own, opening up new excellences and goods and giving fresh meaning to familiar ones. This experience prompts us to reshape our passions and choices, to further nurture self-expending and resist impulses constraining it. We may meditate to contain narcissism and possessiveness, save money and volunteer for charities, change consumption and travel habits to help preserve the environment, take social science and liberal arts courses to make informed political decisions, attend meetings of an immigrant community or opposite political group to better grasp and engage their concerns, or master a language or skill to do humanitarian work abroad. As we do so, we also learn to empathize with those who downplay, resist, decry, or betray our aspirations. We all avoid and fall short of certain commitments, be it due to insufficient experience, partiality, a moment of weakness, or a character flaw, and we recognize that we need each other to work through these avoidances and shortcomings.

\textit{Ultimate Meaning, Normativity, and Human Rights}

Some of Perry’s arguments seem to dismiss the import of such organic moral experiences and reflection on them for the normativity of altruism and intrinsic concern for fairness. He rightly sees prudential moral considerations as inadequate in themselves. However, his

\textsuperscript{185} We will examine Nussbaum’s own thoughts on the importance of loving and compassionate regard in moral and political life in the fifth chapter.
cursory rejection of compassionate concern and rational reciprocity in secular ethical
groundings may undercut his own convictions, moral as well as religious. Yes, compassion
and impartial reason are insufficient on their own to plant thorough moral commitments
and need to link with other normative affirmations, but their plausibility cannot be
uprooted with the mere observation that some people do not value sympathy and impartial
reciprocity or do not see egoism as full of discontents and contradictions.\textsuperscript{186} Neither do
supporting normative affirmations need to be religious—a conception of determinate
human flourishing may be enough. If we discount being compelled to be earnest in our
reasoning, treating others as we would have them treat us, or being pierced by others’
grieving and thriving, we may end up negating all outlooks and values. That upon earnest
reflection and practice we can find such experiences saturating our everyday interactions
and nourishing our sense of authentic, most choiceworthy existence is part of our deep-
seated conviction of human life’s moral structure, as is the experience that the skeptics
cannot live by their skepticism, that in their own life they are urged to renounce their
renunciations. We cannot take seriously—but only with sympathy or indignation—anyone
who does not seek to be reasonable; who demands from someone what he denies them;
who does not compare and evaluate experiences; who does not care how others interpret
and value the world, how they suffer and flourish; or who views all emotions, beliefs, and
ideals as trivial or dispensable. A self claiming this in earnest could be a nightmare
phantom, a psychopath, a brat, or an armchair philosopher, but not a fully developed, fully
self-aware, fully functioning, fully fulfilled, and fully admirable human being. Citing

\textsuperscript{186} Perry, \textit{Toward a Theory of Human Rights}, 19, 22.
instances of moral skepticism, frivolity, or aberration, not matter how common some of these are, is not enough to discount the “ineliminability” of morality in our moral experience, just as, Perry—we assume—would want to claim, it is not enough to cite instances of unbelief or religious hypocrisy and wickedness to discount the “ineliminability of religion” for ethics.187 If we could not be compelled, if fitfully, by moral emotions and reasoning, by their organic necessity and integrity in our daily life, this would subvert not only moral lifestyles but also moral religions. If rational, fair, and compassionate commitments were at cross purposes with human experiences in the world as is, if they had not appeared, if incompletely, as persuasive and fulfilling, the idea of a moral ruler or universe would also be in some doubt. Why would a moral God maintain a morally ambiguous or inhospitable world in which creatures’ constitution and environment prevented them from finding a flourishing life reasonable and rewarding? A faith where morality borders on the absurd and rouses only angst and hostility would need to untie some very tangled theodical knots to make sense of traditional attributes of divine order—justice, mercy, and wisdom. It seems that a religious person with Perry’s sensibilities, who

187 Perry dismisses Nussbaum’s idea of compassionate regard as a source of normativity for impartial benevolence by observing the following: “It is certainly a mark of the normal human being to care for some other human beings – for example, and especially, the members of one’s own family or clan or tribe. But it is certainly not a mark of all (normal) human beings – it is not a mark of ‘the human being’ as such – to care for all other human beings and to feel disturbance when bad things happen to them.” Perry, Toward a Theory of Human Rights, 22. This assessment misses the character of Nussbaum’s conception of compassion as a basic moral emotion and its role within her overall ethical theory. The basic insight is this: we ascertain what is normative, not by observing what most people do, but what we find indispensable and worthwhile, and what they can affirm not only at a given moment alongside kin and allies, but what they can defend through time in conversation and practice alongside various people and cultures. For an insightful critique of moral skepticism, see her essays, “Skepticism about Practical Reason in Literature and the Law,” “Valuing Values,” and “Human Functioning and Social Justice.”
wants to avoid professing the absurdity of faith or total depravity, can doubt secular affirmations of morality’s meaningfulness in history only so far before subverting his own ethics and religion. If a believer insists that the goods of flourishing—rationality, justice, compassion, and benevolence—are ingrained into the universe, it is to be expected that their normativity can be found compelling across human experience, in both reason and emotion—even if someone is agnostic about their design and destiny.

Let’s dwell on this. Perry conjures a model Christian, Sarah, who seeks flourishing in agape because God has created humanity for agapic relationships. ¹⁸⁸ How does Sarah know that this is what her God, design, and flourishing are like, that “the most fitting and satisfying way to live” is to love the “most remote,” “unfamiliar,” “strange,” “alien,” “estranged,” and “antagonistic.”¹⁸⁹ What if her fellow believers were persuaded that to love Christ is to crush infidels and heretics, or to cultivate righteousness among the elect, or to seek signs of predestination in material indulgence, or to attain each virtue by first experiencing every corresponding vice? How would she convince them and unbelievers otherwise? How would she go about showing that God is love, that every person is a sister or a brother, and that we should love them just as God loves them? How would she discern specific attributes of agapic love and verify that they constitute our flourishing? Since she rejects a divine command theory of action, would she not draw on evaluating her and others’ life in the kind of way we adumbrated above, examining its distinctive and most worthwhile features? What would she say of the meaningfulness of impartial reasoning and compassionate concern as parts of agapic flourishing then? What exactly would Sarah’s

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¹⁸⁸ Perry, Toward a Theory of Human Rights, ch. 2
¹⁸⁹ Ibid., 10.
religious conviction add substantively to this evaluation? What new features of flourishing could she add as part of belief in God and how would she ascertain their normativity? And in what sense would she claim that the “validity” of and “effective sources of moral strength”\(^\text{190}\) for her evaluative conclusions demand faith in God? How specifically does the idea of agapic God validate her evaluative judgment that to flourish is to seek agape? By affirming that the universe has agapic origins? Does this mean that if we doubt intelligent or benevolent evolution, the conclusions of our evaluation are invalid? Is it the idea of destiny—final reconciliation, judgment, eternal life? If these too are doubted, our evaluation becomes hollow? Why? If we could ascertain that, say, up to 3,000 years before now universal solidarity hadn’t been on anyone’s mind and that in the next millennium the human race disappears, would we have to reject agape’s current normative fittingness and aspirational satisfaction? Does a normative affirmation of determinate goods in a given world by given agents at a given historical period \textit{necessarily} entail endorsing their primordial design and ultimate consummation? If we examine human life and discover agape or, say, moral flourishing as the most worthwhile striving, why should we deny its truth if we cannot explain how it has evolved and how it could be perfectly realized either within or beyond history? What is it about our experience of agape as a fulfilling life in the here and now that undermines its validity unless it is backed by teleology and eschatology? That not everyone is convinced by agapic flourishing? That even the convinced fall short of abiding by their convictions? That not all of the goods and virtues agape embodies can be perfectly integrated and realized? Does embracing determinate flourishing while

\[^{190}\text{Perry, The Idea of Rights, 38.}\]
entertaining or insisting on doubts about cosmic design and justice entail lack of intellectual integrity or authenticity, at least more so than while upholding religious faith in ultimate meaning—faith in ‘Lo and behold, everything works out for the good of those who love one another’? If cognitive dissonance is the core of skepticism about robust secular moralism, should not Perry produce a compelling theodicy countering all of the reservations about cosmic order and benevolence? Perry does not explore these questions. We’ll give a try in the epilogue, reflecting further on the tensions and virtues religious faith brings into moral commitments.

As noted earlier, while Nussbaum insists that her capabilities approach does not rely on any metaphysics, comprehensive good, and human nature, that insistence has to be measured by her concern for political liberalism. She is convinced that in our political life we can agree on the basic contents of human flourishing while espousing different

191 As noted earlier, Perry thinks affirmation of agape as a result of unpremeditated evolution is too “contrived” and “ad hoc” to be credible: “Far from being created ‘in the image of God,’ human beings are merely the unplanned, unintended yield of random mutation and natural selection. But, lo and behold, it just happens that the evolved nature of human beings is such that being a person who ‘loves one another just as I have loved you’ is the most deeply satisfying way of life of which human beings are capable. This free floating non-religious position seems so ad hoc, as if those who espouse the position were determined to cleave to a consoling belief about human nature long after the religious vision in which the belief has traditionally been embedded has ceased to have, for them, credibility.” Ibid., 24-25.

192 Perry, like many contemporary religious thinkers, sees evidence for the transcendent teleology of agape in that it is not “compatible” with evolutionary fittingness. See his footnote 63 on pages 168-169 of Toward a Theory of Human Rights. Curiously, both now and especially in the past, many other religious thinkers see proof of agape’s telos precisely in its fittingness with the unfolding of human flourishing. So for Thomas Aquinas supernatural virtues of faith, hope, and love do not contradict or displace natural virtues but fulfill and perfect them. See Thomas Aquinas, Treatise on the Virtues, translated by John A. Oesterle (Notre Dame, IN: University of Notre Dame Press, 1992), questions LXII, LXIII, and LXV.
overarching life views and that we can debate each other, move the argument along, and
make our lives better without a complete, unified theory of everything—of the real, the
true, the good, the social, and even the human. We will interrogate that political philosophy
in another chapter. Here we will underline another conviction that we can affirm by
reflecting on the capabilities approach. Evaluating “the most fitting and satisfying way to
live”\footnote{Perry, Toward a Theory of Human Rights, 10.} may be related to, but is also distinct from, examining how this way of life has
developed and will conclude. We discern and validate what is fitting and satisfying by
examining the most worthwhile features of human capabilities and the indispensable
conditions for their unfolding and blossoming—in the world as we find it. Whether the
universe is bent on us realizing this way of life is a secondary inquiry and its conclusions
need not undermine our discernment and validation. There may be sufficient order,
meaning, and value in our life as is to be compelled by deep moral commitments, including
those in human rights ethics. We may be urged to ask questions about our origins and our
prospects and yearn for consummation and unity of our goals, but if no answer to these
questions and yearnings fully persuades us, if the universe remains an enigma, we can still
affirm aspiration and responsibility for what we already find most distinctive and valuable
about human life. Our practices can rely on partial, not complete, validation of our norms
and ideals. A flourishing life seeking fulfillment in fair and benevolent bonds across
communities does entail many limits, clashes, discontents, and tragedies, it does not fully
synthesize virtue with happiness,\footnote{A nod to Kant’s conception of the “highest good”: “Now, inasmuch as virtue and
happiness together constitute possession of the highest good in a person, and happiness
distributed in exact proportion to morality (as the worth of a person and his worthiness to}
That flourishing so conceived is partially validated in our experience means that we can trust in its authority and worth, and that it is incomplete challenges us to strive further, as deepening and extending of that validation depend on this striving. Besides, competing visions of the worthwhile life, be it that of the cynic, the skeptic, the epicurean, the aesthete, the overman, the stoic, and so on, can be ascertained as far less complete, reasonable, and fulfilling—as unchoiceworthy for a human being.

So how would we proceed to ground our commitment to human rights ethics from the capabilities approach? How would we conceive their normativity and reasons for action? We would make a prima-facie commitment by affirming that human rights point to enduring human goods composing human flourishing—that fostering societies and practices supporting the dignity of each person to realize these goods in benevolent relationships in search of the common good is constitutive of the most fitting and worthwhile life we can aspire to as human beings. We would insist that just like we can ascertain a specific human good by assessing how it fits with our capabilities and functioning—notwithstanding this good’s fragility and potential conflict with other life

be happy) constitutes the highest good of a possible world, the latter means the whole, the complete good, in which, however, virtue as the condition is always the supreme good, since it has no further condition above it, whereas happiness is something that, though always pleasant to the possessor of it, is not of itself absolutely and in all respects good but always presupposes morally lawful conduct as its condition.” Immanuel Kant, Critique of Practical Reason (Cambridge, UK: Cambridge University Press, 2015), 90. John Hare gives an interesting analysis of the implications of Kant’s conception of the highest good for theism in his “Kant on the Rational Instability of Atheism,” God and the Ethics of Belief: New Essays in Philosophy of Religion, eds. Andrew Dole and Andrew Chignell (Cambridge, UK: Cambridge University Press, 2005), 202-218. See also his “Is Moral Goodness without Belief in God Rationally Stable?” in Is Goodness without God Good Enough? A Debate on Faith, Secularism, and Ethics, edited by Robert K. Garcia and Nathan L. King (London, UK: Rowman and Littlefield Publishes, 2009), 85-100.
norms—so can we also uphold the overarching value of moral flourishing, given our life’s overall requirements and possibilities. Our further articulation and defense of that commitment depends on the character of the moral dilemma we face as well as who our conversation partner is and the context in which their and our questions are raised. In some contexts and with some persons, we may appeal to impartial judgment to highlight that our everyday reasoning and practical action depend on recognition of and accountability to impartial norms, and that our interlocutor would support a given right if she were to reason about it blind to personal advantage. In other contexts, we may draw on prudential considerations. We can point to the vice and suffering in those societies that neglect a certain right or the virtue and thriving in those supporting it. When canvassing support for humanitarian intervention far away, we can note how withholding help frays ties of trust and beneficence in our own society and corrodes dependence on other nations in our own time of need. In still other contexts, we may focus on the intrinsic goods and virtues of moral flourishing, on how justice, compassion, and love are closely linked to our sense of living a life of genuine worth and fulfillment. We can reflect on our common humanity with others, our shared vulnerability to harm and yearning for good; how everyday relationships and pursuits are rife with selfless concern, how we always receive and give more than can be reciprocated; how we depend on and find fulfillment in caring for each others’ uneven struggles and pursuing shared goods; how benevolent virtues and partnerships transfigure our values, desires, and reasons for action—what we find worth living, as well as dying for. The contents of a flourishing life are complex, many-sided, and in tension with each other, as are the people and circumstances we face. We can expect that the reasons we draw on to make sense of our moral commitments are also
complex, many-sided, and in tension with each other. A given explanation may illuminate one dimension of flourishing and morality while obscuring another, and may convince one person and confuse the next one. We need different types of reasons to attempt giving our life and each other full justice, and when pondering both what is moral and why be moral.

At times, Perry appears to suggest that human rights ethics demands of us heavenly agape, that we completely fuse our wellbeing with the life of every person everywhere, that we be willing to sacrifice for anyone what we would sacrifice for ourselves or those dear to us. It doesn’t. It is not even clear that any religion does and can without truncating selfhood, virtue, and flourishing. That too we will explore in the epilogue. Human rights ethics asks of us something much messier, but no less demanding: that in daily encounters we treat others fairly and compassionately; that we attend to our vocations and pursuits earnestly and responsibly; that we seek harmonizing the goods in our families, friendships, hobbies, professions, institutions, and polities; that we address the interests, struggles, and virtues of other nations; that we foster communities and institutions to keep us inspired and accountable; and that we brave conflicts of ideas, interests, and values bearing with attendant sacrifice, compromise, failure, and despair.

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DIGNITY

Dignity is sometimes accused of being too vague or even vacuous a concept to be useful in ethics, especially in practical decision making. Its meaning is deemed so amorphous and open-ended that it can attach to many, sometimes contradictory ethical values, often acting as a placeholder in the discussion with no distinct and settled content. Dignity is invoked in conflicting ways for and against assisted suicide, genetic experimentation, abortion, free speech, and LGBT rights, among scores of other positions. In human rights discourse, dignity is employed to explain why human beings possess rights, but many critics wonder whether the claim “human beings have rights” alters meaning when adding the clause “because they have dignity.” In this vein dignity is likened to a majestic facade with empty space inside—it flatters humanity with a grandeur bereft of substance.\(^{196}\)

If we expect too much of dignity in our ethical theory and practical judgement, it will, indeed, leave us frustrated and disillusioned. Dignity has not proven to work well as a source or arbiter of moral truths. When it is employed to generate and evaluate moral claims, it invariably becomes entangled with other concepts that can convey the values at stake with greater clarity and potency. Dignity is best conceived not as an autonomous

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critical principle but as a correlative axiom of our deepest intuitions about the nature of morality. It conveys a profound basic conviction about our moral practices and prompts us to examine why we have this conviction and what it demands of us alongside other deep-seated norms. Dignity has more to do with necessitating and sustaining conversation, rather than refereeing and settling it. It is more of a starting than a vantage point for our critical thought.

Dignity helps convey that every person has intrinsic inimitable moral worth, that this worth is possessed by virtue of being human rather than sovereign fiat or social consent, and that both individual and collective interests should respect this worth. Not all historical societies have seen individual lives and ethics in this way. Past polities had defined values and qualified respect for the individual in view of tribal identity, spiritual vision, kingly authority, aristocratic honor, and national ethos. In contemporary discourse, dignity thus serves to articulate consent around the central importance of individual worth in ethics and politics and commitment to figuring out what affirmation of that worth entails in various life contexts. Dignity is part of an evolving, multilayered framework of ethical, political, and legal thought. As such, it is no surprise, or vice, that its meaning can vary and provoke debate in the course of practical decision making. This is the fate of most big ideas and values towering over our reasoning: freedom, equality, security, happiness, or faith, to name a few. Their meaning, even if intangible and shifting, can be very powerful and useful.

Two ideas are key to upholding human dignity: equality and distinctiveness. All humans deserve basic moral respect equally irrespective of their social standing and physical condition. Human moral status is also distinctive from that of other sentient life
and commands treatment differing from other terrestrials. In our second chapter, we saw Wolterstorff grappling with these ideas from a theistic perspective in ways that challenged exclusively secular affirmations of human dignity. How would we take account of these two ideas and of Wolterstorff’s criticisms by drawing on the capabilities approach?

**Dignity and Equality**

How could persons possess human dignity equally if they vary, and sometimes greatly, in their faculties and excellences, especially when they are severely limited in some capacity seen central to human functioning? As we saw, in Nussbaum’s ethical theory, to claim dignity is to demand that one be treated according to the characteristic capabilities of one’s agency.\(^{197}\) No single capability defines human agency. Human functioning is manifold and holistic. All of the central capabilities matter for understanding what a human being is like and how she best flourishes. Neither one is autonomous; they all interpenetrate in a distinctive human biology and environment, being nurtured in intimate dependence on each other. Rationality, often deemed definitive of human dignity, can thus never be conceived and prized apart from the other parts of the self. While practical reason, alongside affiliation, is a primary capability in that it leavens human flourishing with distinctive value, it is bound up with the other capabilities in how it both forms and blossoms. Nussbaum has produced meticulous scholarship on how the life of the mind gains its shape and significance through animalistic components of selfhood.\(^ {198}\) Our material needs and capacities—for nutrition, nurture, shelter, health, fellowship, play,

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\(^{198}\) Her extensive treatment of emotions and agency is found in *Upheavals of Thought*, Part I.
work, self-expression—help engender and guide our reasoning practices, what we think about and how we find things meaningful and valuable. The animalistic provides sources, goals, and norms for the rational and as such possesses substantive epistemic and existential import. We should avoid idealizing rational capability at the expense of other capabilities with which it is bound in constitution and worth. If rationality were stripped of material accoutrements, of their burdens and drives, our flourishing and dignity would be that of gods or ghosts, not of humans.\textsuperscript{199}

Further, human agency and flourishing involve both active and passive dimensions. Our identities and pursuits are constituted by both acting and being acted upon, for example, teaching and learning, leading and following, or caring and being cared for. In practicing any capability, we learn our distinctive way of achieving it, what our possibilities and limits are, and in what ways others contribute to our practice by way of reciprocation and benevolence. Need, vulnerability, and dependence are inescapable features of human life and hold profound meaning for human development and thriving. Our individual frailties and lacks may, indeed, constrain our flourishing, but they also offer distinct forms of actualizing it, both in terms of what they demand of us and what they demand of others. Someone in a wheelchair has one way of pursuing play, a blind person yet another, a cognitively disabled one still another. There is something unique that each one of them brings to the capability of play as he engages it alongside other people. In that light, severe mental impairments do not rob us of distinctively human flourishing. They may narrow the scope of what we may be capable for, but the fundamental orientations

\textsuperscript{199} Nussbaum, \textit{Frontiers}, 131-133, 159-160.
toward self-realization are still there and call for engagement and fulfillment. These impairments are coterminous with more ordinary hardships and infirmities we all encounter throughout our lifespan, especially as infants and the elderly. We live amid all kinds of asymmetries in ability and disability, many bereft of our choice and control, that entail uneven reciprocities; some are temporary, others are lifelong; in some we are benefactors, in others, beneficiaries. We cannot take full account of and credit for all the things we are capable and incapable of and all the ways we contribute and profit. We all need special care and resources at different periods, sometimes more, sometimes less.\footnote{Nussbaum, \textit{Frontiers}, chapter 2. These insights are similar to Alasdair MacIntyre’s in \textit{Dependent Rational Animals; Why Human Beings Need the Virtues} (Chicago, IL: Open Court, 1999).}

In the capabilities approach, all persons’ capacities and incapacities are placed on an uneven footing in need of equilibrium. All of us stand unequal in our potentials, resources, and circumstances to practice capabilities and attain flourishing. We all require preferential treatment in various conditions and situations to live a life worthy of dignity. Our bodies need varying nutrition, our minds differing learning methods, our emotions personalized support or therapy, our creativity diverse outlets and work environments. And that in conjunction with our disparate histories and their debts, struggles, and responsibilities. Justice is rarely, if ever, negotiated between full equals. In aiming for fairness, it cannot help weighing and balancing inequalities. The fact that some of us can be in a temporary or permanent state where we cannot rationally claim a dignified life does not change anything. That too is an inequality to which we all may be vulnerable, whether remediably or irrevocably, and it requires no greater intervention from others than other,
more self-aware disabilities and hardships. We can draw on momentous resources when overcoming a drug addiction, recovering from a traffic accident, rebuilding business after bankruptcy, or starting life anew after losing possessions and loved ones to a hurricane.

In this view of life, it would be unfitting for me, a person of sound mind and body, to regard, say, an Alzheimer’s patient as possessing less human dignity. Whatever her impairments, she still remains a human agent capable of human flourishing. She still has capabilities yearning for fulfillment, be they more inhibited and dependent. Her capabilities have different aims and needs from mine, but so are mine from those of countless others, and theirs from mine. I too have limitations and vulnerabilities for which I am dependent on people, some far more able than me, in ways I may never be able to reciprocate and pay my debts for. My forms of helplessness do not diminish my dignity, my claim to be regarded with equal moral respect. Dignity as equality requires that—with all particular responsibilities accounted for—I treat all persons the same way in identical circumstances in accordance with their needs and capacities. I treat my parents as healthy persons when they are healthy, and I would treat them as Alzheimer’s patients were they to suffer from Alzheimer’s, and I expect relevant others to treat me the same. My plight, no matter how dire, simply informs what dignity demands of others; it does not undercut the status of dignity and its imperatives.

Nussbaum has devoted great attention to the challenge persons with disabilities pose for our understanding of justice.\(^{201}\) She insists that our articulations of justice and public policies should view people with various impairments as able to achieve all of the

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\(^{201}\) Nussbaum, *Frontiers*, chs. 2 and 3.
central capabilities. The list of the capabilities should be the same for everyone to convey our solidarity as full moral equals.\textsuperscript{202} No one should be treated as an inferior specimen of the species or second-class citizen. We should do utmost to help both physically and mentally impaired to live to their full potential in each capability. She notes that many of the limits placed on the development of persons with disabilities are social rather than natural, and are often driven by their cost and demand on public-spiritedness.\textsuperscript{203} Not too long ago, it had been assumed that someone blind or deaf could not acquire a university degree or follow political occupations, or someone bound to a wheelchair could not pursue a sporting life and excel in various jobs. Rearrangement of public space and facilities has given significant autonomy to the lives of physically disabled, even if before they had been regarded as inexorably dependent.\textsuperscript{204} Mental impairments are no exception. Children with Down syndrome had been considered “dumb” and “ineducable” until their parents and other advocates believing otherwise insisted on research and therapy that eventually showed they could overcome many of their cognitive deficits.\textsuperscript{205} With proper treatment and guardianship, they can grow up to engage meaningfully a full range of human goods, including those involved in having a family and a profession. To be sure, even the best of public support and individualized care cannot address some limits to capabilities. For example, some mentally impaired persons cannot form and convey their political choices, either by themselves or through proxies.\textsuperscript{206} Such limits, however, should not lead

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\textsuperscript{202} Ibid., 186-195.
\textsuperscript{203} Ibid., 113.
\textsuperscript{204} Ibid., 188-189.
\textsuperscript{205} Nussbaum, Frontiers, 189.
\textsuperscript{206} Ibid., 195.
to the stigma of an inferior status, as if a person were a different type, or a lower kind of, 
human. They should be viewed alongside other human foibles and frailties. We all have 
impediments of varied kinds and levels to achieving our full potential in diverse areas of 
life, impediments that may require accommodation and intervention and that, besides 
restricting and afflicting us, also give our lives individuality and character.

In her earlier work, Nussbaum focused on the possession of capabilities in defining 
humanity and dignity. She stressed the potential to exercise a major grouping of central 
capabilities as key to determining whether someone is owed moral respect as a human 
being and in what ways. This focus stems from Nussbaum’s Aristotelean outlook that moral 
respect is hollow apart from understanding the contents and conditions of capability and 
flourishing. This outlook had led Nussbaum to reason that in certain unfortunate 
conditions persons may not be human after all, that we may be “deceived” in thinking that 
they were a self like us, for example, in the case of anencephaly and persistent vegetative 
state. In her most recent work, however, she underlines human solidarity in various

207 In Frontiers of Justice, Nussbaum writes the following while reflecting on the plight of 
Sesha, daughter of philosopher Eva Kittay, who suffers from congenital cerebral palsy and 
severe mental retardation: “Some types of mental deprivation are so acute that it seems 
sensible to say that the life there is simply not a human life at all, but a different form of life. 
Only sentiment leads us to call the person in a persistent vegetative condition, or an 
anencephalic child, human. What makes us wish to call Sesha’s life human, and what 
difference does that make? Of course, the fact that she has a human body and is the child of 
two human parents plays a large role here, and may distort our thinking. We should not 
summarily dismiss the possibility that the right thing to say is that her life is some other 
sort of life, but not close enough to a characteristically human form of life for the term 
‘human’ to be more than a metaphor. That is the right thing to say in the two cases I 
mentioned, because all possibility of conscious awareness and communication with others 
is absent. To the extent that we do think of Sesha’s life as a human life, and I think we are 
not deceived when we do, it is presumably because at least some of the most important 
human capabilities are manifest in it, and these capabilities link her to the human 
community rather than to some other: the ability to love and relate to others, perception, 
delight in movement and play. In this sense the fact that she is the child of human parents
plights and embraces a more capacious position that anyone born to human parents must be seen as human.\textsuperscript{208}

This is an important and welcome shift of perspective. When we behold the face of an anencephalic child or feel the breath of an irreversibly comatose adult, we cannot bring ourselves to regard them as nonhuman. Their loss of the vital parts of agency does not erase their humanity to our moral senses. While we cannot engage their capabilities, we are still compelled to respond to them as fully human, as one of us, as someone we can imagine we could have been or might end up being. They still retain their human dignity, a claim of moral equals, that we fulfill by, among other things, mourning and honoring their death as humans, and not as some other species. With the person in a coma, we may do that by reminiscing about their past life, and with the anencephalic child, by contemplating what their life could have been, for them and for us. A human self is more than the sum of its parts; its moral status transcends its awareness and control over its functioning. We owe distinctive regard to humanity even long after death, for example, by preserving an accurate record of someone’s life, honoring the contents of a will, or keeping deathbed promises. Capabilities thus convey what respect for the human person requires amid ordinary conditions of life, but they do not exhaust the meaning of personhood and dignity.

\textit{Dignity and Distinctiveness}

What about the distinctive status of human dignity? As we saw, Nussbaum links dignity to matters: her life is bound up in a network of human relations, and she is able to participate actively in many of those relations, albeit not in all.” Nussbaum, \textit{Frontiers}, 187-188.

\textsuperscript{208} Nussbaum, “Human Dignity and Political Entitlements,” 362-374.
the species norm. Each species has its distinctive agency, its unique set and mode of realizing specific capabilities. The sense of indignity, of “tragedy” and “waste,” experienced when that being’s flourishing is thwarted is endemic to that agency and its potential.209 A hedgehog deprived of literacy does not make us indignant or sympathetic, in contrast to a human child. Further, all species have a distinctive environment for developing and integrating their capabilities into an organic whole. To assess capabilities in a given species, we have to examine how they fit into its overall way of life, how they are nurtured and synthesized in holistic flourishing alongside its mates. Therefore, human beings not only have distinctive capabilities, but also distinctive forms of life, distinctive practices and relationships, for achieving them. Humans develop and flourish best alongside other humans; they would not be able to cultivate their capabilities fully, and some not at all, on their own or among other species. I cannot learn a human language, art, or ethics with the most intelligent nonhuman animals, just like I cannot find comfort, stimulation, and meaning among them in my frailties and dependencies. A dolphin or gorilla can find its way and contentment among its mates, in contrast to a person suffering from dementia. That person may fall short in his memory and analysis, but still retain outsize capacities for affection, play, and pleasure that can find support and care only among fellow humans.210

When we evaluate responsibilities across species, we thus examine not only sentience, capacity for pain and torment, and the level and mode of capabilities, but also our affinity and relationship to a given species. We prioritize the flourishing of our fellow humans, not so much because they can be more keenly self-aware, suffer more acutely and

profoundly, or excel more remarkably, but because we can understand, empathize with, and engage their awareness, suffering, and excellences more organically and extensively. I know what it is like to endure hunger, to be distraught by failure, to be trapped in helplessness, to long for the beloved, to be inspired by greatness, to be haunted by guilt, and to be bound by duty—and all as a human, and not some other, agent. Whatever differences I may encounter between me and others in these experiences, I am capable of grasping and addressing these differences in ways qualitatively distinct from and often inaccessible in relationships with other species. Other persons’ concerns, achievements, or incapacities may strike me with a sense of radical otherness, but it is still an otherness that I can find more relatable than the similarity I perceive in nonhuman animals.

My flourishing with fellow humans has a bond and mutuality that cannot be replicated with nonhuman animals whose vulnerabilities and strivings I cannot help experiencing only as an outsider. I respect and attend to the needs of other species, but I prioritize my own, knowing that the other species do the same in their own organic harmony.

That this kind of species bond and mutuality greatly shapes our moral intuitions about what we owe to whom across species may be discerned in the following thought experiment. Imagine that a friendly alien civilization colonized a part of our planet. These extraterrestrials have an exceedingly sophisticated culture, ethics, and science. They are highly moral beings who seek to preserve habitats and create technologies benefitting other earthlings. They live more or less independently as their way of life varies markedly from other species. Their knowledge, virtue, and leisure are, for the most part, insuperably arcane to us, and ours to them. Awed by the exterior complexities of their civilization and its achievements, we recognize that the aliens are far superior to us, but we do not grasp
the full extent and nature of their superiority. By observing their benevolent accomplishments from a distance, we sometimes learn something of value, but at bottom we find ourselves incapable of engaging their practices and sensibilities, and they are incapable of engaging ours. What kind of moral concern would we think reasonable to extend to our superior benefactors, and what would we expect in return? We would certainly feel compelled to protect their way of life, both because of its own worth and because of its impact on our wellbeing. In certain contexts, we might be urged to sacrifice our resources to help secure their survival and welfare. Still, in the flow of everyday responsibilities, because of the significant differences between our forms of functioning, their lack of direct reciprocity, we would organically prioritize obligations to our fellow species, just like the aliens would to theirs. Respect and beneficence would be conditioned for both of the parties by the extent to which they could understand, influence, or partake in the other's flourishing. If the aliens could discern some acuity in our cognitions, some depth in our emotions, and some good in our pursuits, they would be obligated, within the give and take of their own commitments, to keep us from harm's way and assist our needs and aspirations. But we would hardly hold it against them if they privileged obligations to their own community whose wellbeing they could engage with greater and distinct appreciation and efficacy.

This thought experiment helps explicate our relationship to nonhuman animals. To the degree that we can grasp and impact their suffering and flourishing, we have obligations to respect their way of life, to preserve their habitats, avoid unnecessary harm, and support their needs. Yet we are not compelled to extend them the same moral concern as toward the human community to whom we are linked in unique, integral mutuality. We
flourish distinctly in organic harmony mysterious to other species, and we let other species flourish distinctly and mysteriously in theirs. Many challenging questions about human and animal justice remain addressing which adequately will take a project of its own. The capabilities approach offers a helpful overarching scheme for pursuing these questions with recognition of distinctive dignity in each species.\(^{211}\)

*Dignity and Religious Grounding*

Wolterstorff dismisses a view of dignity based on human nature and capacities, given their grave defects: “Yes, a human being in whom human nature is functioning properly is of great worth, truly admirable. But why would one think that a being in whom human nature is seriously malfunctioning is still of great worth just because it has that nature? If its worth is entirely grounded in its possessing human nature, why is it not disposable?”\(^{212}\)

As discussed above, this sentiment misses the point of our regard and concern for other persons. We feel compelled by human dignity, not so much because human nature has a higher stature among other species, a superior potential for achieving greatness, but because we are bound by integral affinity with its forms of agency and flourishing, because we organically share and can intimately engage both its highs and lows, capabilities and disabilities, triumphs and failures. Wolterstorff reckons that only an external grounding that circumvents human capacities can sustain human dignity, but we should probe whether such a grounding is plausible on both ethical and theological premises.

\(^{211}\) Nussbaum offers an extensive account of ethics for nonhuman animals in chapter six of *The Frontiers of Justice*.

\(^{212}\) Wolterstorff, *Justice*, 351.
Wolterstorff resists traditional theological construals of human dignity around imago dei imagery, because whatever essential capacity is attributed to humanity to be in the likeness of God, for example, moral stewardship or agapic benevolence, that capacity would be found missing in some persons’ plight. Human nature cannot have special worth in itself but only bestowed worth in view of its special value for God. Wolterstorff draws on Augustine to distinguish between three different forms of divine love toward humanity and their significance for human worth: love as attraction, as benevolence, and as attachment. In love as attraction, the lover is moved by the worth of the beloved, by some valuable aspect of its being, and seeks to engage this worth to mutual advantage. In love as benevolence, the lover is inspired to benefit the beloved’s wellbeing. The beloved’s worth may be enhanced by this benevolence, but such enhancement would not be intrinsically related to the act of benevolence, for the conferred benefit would be of worth no matter how it came about, by benevolence or in some other fashion. Love as attachment is altogether different; blind to the worth of the beloved, the lover is committed to the other’s wellbeing simply in view of their special relationship. A child, Wolterstorff illustrates, may love her stuffed animal simply because she has bonded with it, even though it may be ugly to everyone else. Wolterstorff argues that human worth can best be

213 Ibid., 358-360.
214 It’s a mouthful, and perhaps somewhat convoluted, but that’s exactly how it comes across in Wolterstorff: “Love as benevolence obviously does enhance worth, at least if it is successful. But the enhancement does not consist simply in the person’s being an object of benevolence; it consists in some alteration in her or her life that the lover causes. Her life is going better because she now has adequate food. But having adequate food would make her life better no matter how that came about, whether by benevolence or in some other way. Being an object of benevolence is not, as such, an enhancement of worth.” Wolterstorff, Justice, 359.
understood through God’s love as attachment. God bestows great worth on human beings simply in view of his special bond with them. Wolterstorff illustrates the character of this bestowed worth through the kind of honor a queen’s subject may be granted by being appointed her ambassador. The very act of such royal appointment confers an enviable status demanding special esteem from others: a person is now the queen’s representative—honoring him is honoring the queen, as is demeaning him is demeaning the queen. God’s love for humanity has similar consequences: it bestows on them great worth to the effect that “other creatures, if they knew about this love, would be envious.”

Wolterstorff’s construal of human dignity as a gift of God’s love might seem appealing on first sight. It draws on ideals highly valued in everyday moral life. Unconditional commitment to others’ wellbeing, impartial to their status and plight, is paramount to our moral intuitions. For a person of faith, this construal may also be attractive because it conveys insight into the innermost nature of divine love: unmerited and unreserved, it embraces and labors even through human indifference and hostility. The construal summons believers to take on God’s very way of being and to love other persons both in who they are in themselves, wretched sinners as they are, and in who they are for God, the beloved created for intimate fellowship. These intuitions, however, should be probed in light of other values central to both moral and religious life.

From a moral standpoint, we may note that attachment in itself can be a fickle friend of truth and fairness. Some objects of attachment can be disorienting and injurious for everyone involved. To begin with, someone’s motives and aspirations matter greatly to

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215 Ibid., 360.
what kind of attachment I can and should pursue with them. It would be bizarre, if not
deviant, to unconditionally privilege partnerships with someone wicked or callous at the
expense of someone virtuous or compassionate, especially when they lead to nefarious
outcomes. Others’ needs matter as much. My devotion to the care of my family is
conditioned by the urgency of other persons’ hardships within my circle of responsibility.
I cannot hoard a fortune large enough to benefit my children and several generations of
their progeny when my community is ravaged by famine and state actors are losing their
ground. And more relevant to our discussion, the character of attachments depends on
a person’s capabilities. I would be abusive were I to compel my dyslexic son to train for
a spelling bee competition I had dreamed of winning as a child. To be fitting and beneficial,
attachment thus has to consider its aims, boundaries, and blind spots.

From the theological standpoint Wolterstorff espouses, we can observe that the idea
of loving someone because of who they are for God includes a vision of what they could be
through God. That is, special regard for humanity presumes something special about its
potential in God’s design and providence. God’s special love toward the human does not
seem arbitrary; it is special because human nature in relationship to God is created
special.216 If God’s love was preferential on a whim, if, say, it preferred snails and jellyfish
over humans, it would seem not only odd, but perverse. Why should creatures with
potential for acute suffering, complex flourishing, and moral stewardship of creation be

216 See, for example, Basil Mitchell: “It cannot be God’s love for man, taken by itself, that
gives man his peculiar value, for God loves all his creatures. But only men, so far as we
know, are capable of and destined for eternal life, that is to say, a life of loving communion
with God and with other men, which may begin on earth but can be fulfilled only in
given inferior regard to organisms with little or no sentience? In another discussion, Wolterstorff contends against divine command theory by noting that justice, while a part of God’s essential being, has rational and valuational integrity of its own.\textsuperscript{217} The same insight should apply to the conception of human dignity in relationship to God. God’s preferential attachment to human beings would seem just only if God could engage human agency and flourishing in unique ways inaccessible to other creatures. And that unique engagement would seem plausible only if human nature had a special affinity to divine nature distinct from that of other species, an affinity that would also include capability to respond to the engagement. Human beings could thus derive distinct dignity from their special bond with God only if they had a distinguishing resemblance to and capability for God’s mode of being and thriving. To be sure, given traditional portrayals of divine omniscience and benevolence, God may be seen as understanding and benefitting the wellbeing of nonhuman animals in unique ways as well, in ways that may evade humanity’s appreciation of their place and value in God’s plan. Still, if human dignity is to stand apart in a theological account, human nature and flourishing have to be in greater likeness to God than those of other species, in such a way that God could partake in human life with greater meaning and value.\textsuperscript{218}

\textsuperscript{217} Wolterstorff, \textit{Justice}, ch. 12.

\textsuperscript{218} Thomas Endicott has a comparable insight on Wolterstorff’s conception of dignity: “If the worth that grounds human rights is bestowed on people by God’s act of loving them, then our value as human beings is incomprehensible without belief in God…. But if our worth is conferred on people by God’s making us as we are, then God cannot but love us, and our worth is there to be seen.” “What Human Rights Are There—if Any—and Why?” \textit{Studies in Christian Ethics} 23, No. 2 (April 12, 2010): 180. Also see a forceful theological critique of Wolterstorff’s position by Nigel Biggar, “Nicholas Wolterstorff, Justice: Rights and Wrongs,” \textit{Studies in Christian Ethics} 23, No. 2 (April 12, 2010): 130-137. The special issue of the journal from which both of the articles above come has several other thoughtful
Wolterstorff stresses that human nature cannot have great worth because some of us are “seriously lacking in capacities” to the effect that our nature is “malformed.”\textsuperscript{219} We should note that mental impairment may pose no greater malfunctioning than moral and other impairments, in both theological and ethical contexts. “All have sinned and fallen short of the glory of God,” and “for unto whomsoever much is given, of him shall be much required.” Unchosen gullibility has no closer relationship to vice or baseness than ingenious deviousness to virtue and stature. More relevantly, whatever defects human nature is liable to, it is still seen as special in that it is \textit{capable} of being uniquely redeemed by God, together with these defects. Barring this capability, God’s redemptive choice would be unintelligible. Undoubtedly, God’s loving attachment to humanity is depicted as paramount in the activity of redemption. Still if someone were to claim that certain human beings are unworthy of divine redemption, a plausible defense that it is all-inclusive would insist that all human nature, in contrast to other species, had unique capability to respond to and be transformed by redemption. The gift of transfiguring love can be offered in earnest only to someone potentially able to receive and make use of it. God’s salvific favor toward the human seems impossible to affirm apart from God’s unique creation of the human. The idea of fallen humanity would not undercut this insight. The Fall does not transform human beings into another species. Fallen human nature is still human nature. Its renewal can be affirmed only in view of its potential for renewal. In contrast, rocks, worms, or cats cannot be made into a new creation. Wolterstorff says that a nature- and capacity-resemblance view of

\textsuperscript{219} Wolterstorff, \textit{Justice}, 350-352.
human dignity is inadequate by itself. But so is an attachment-based view. The special
cost of human nature and capability cannot be disentangled from human dignity even in
theological ethics. Both God and humanity can be bound by a special regard for the human
only in view of special affinity in their being and special capacity for engaging mutual
thriving.

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The idea of dignity prompts a search for common humanity, some attributes in our
functioning we all share as characteristically human and not as some other agents.
We usually think that the distinct and equal moral worth of all human life requires finding
some unique capacity we all possess equally—for reason, freedom, morality, happiness,
divine knowledge. Examining religious grappling with dignity alongside the capabilities
approach helps clarify that this thought is misguided. Distinct and equal human worth does
not depend on us all equally possessing—be it potential for or exercise of—any one unique
capacity; rather it resides in our equal yearning to realize all indispensable human

220 For a prominent example of a theological account that links capacities to dignity without
reducing them to it, see John M. Finnis: “Just as immaturity and impairment do not, in one’s
own existence, extinguish the radical capacities dynamically oriented towards self-
development and healing, so they do not in the lives of other persons. There is the
ontological unity of the human race, and radical equality of human persons which, taken
with the truths about basic human goods, grounds the duties whose correlatives are human
Thought and Secular Ethics 2 (2012):3. Timothy Johnson’s account also preserves both
“nature” and “capacity” in its distinction between dignity (active components of human
nature—“contingent personal achievement”) and sacredness (passive components of
human nature—“essential human nature,” “universal human needs and potentials,” the
most basic of which is to “give or receive agapic love”) in Political Agape: Christian Love and
capacities as they are embodied in our particular agency and plight. We all differ in our abilities and opportunities to fulfill them; yet despite these differences we all strive to engage what we are capable of as particular humans in particular circumstances alongside other humans. The capabilities approach draws attention to the holistic and social character of human flourishing, and it underlines not only shared possibilities but also shared struggles, as well as shared responsibilities for addressing them. In that light, dignity has an individual or self-oriented component and a social or community-oriented component. We can realize dignity as selves only in communal life, amid both claims and duties, and both reciprocation and beneficence. Our full and special worth cannot unfold otherwise.

As reflection on human flourishing in the previous chapter makes clear, human dignity also has a transcendent element in the capabilities approach. There is a depth to us to which neither society nor self-knowledge has complete access, given our finitude and freedom. We have to be open to claim and enact worth that escapes our notice, to which we have grown blind or aloof and can awaken through experience or to which we have not yet applied our creative and compassionate potential. There is always more to what we are capable and worthy of—more limits and flaws to discern and remedy and more values to conceive and fulfill.

A believer may still wonder, why should the yearning for realizing capabilities bear a normative claim for an unbeliever? The answer, as noted at the end of the previous chapter, is multilayered but, at its core, may be akin to what a believer might say when asked why God cares about human life—what would God answer? I want to see another person fulfill her unique potential and I view honoring and engaging this fulfillment as
constitutive of fulfilling my own unique potential. How does the unbeliever ascertain this potential? By exploring the requirements and possibilities of a flourishing human life, with a focus on its most valuable, choiceworthy features.
COMPREHENSIVE GOOD

Religious critique from the comprehensive good draws out three concerns about secular conceptions of human rights. First, we cannot evaluate rights, as well as all other moral norms, without *shared reasons* that can emerge only amid shared goods and practices. Clear-headed moral discussions cannot appeal to abstract principles of rationality conceived apart from history and tradition or by voicing individual preferences and then ordering them through utilitarian calculus. Second, we need to see how rights, as well as the goods and virtues they demand, cohere in the life of a person and a community, and for that we need a view of *holistic flourishing*. Rights cannot be viewed as isolated entitlements; they must be correlated to responsibilities toward overall human good. Third, we are to address *roots of obligation* and articulate why we should be committed to human rights as a matter of overriding concern. Robust ethical norms require robust intellectual and emotive sources for their imperativeness. For all of these tasks, we saw Alasdair MacIntyre argue, we need to bring into play thick comprehensive beliefs about reality, human nature, knowledge, and value unified in a coherent whole.

*Political Liberalism*

Before we assess these concerns, let’s examine how Nussbaum conceives and limits comprehensive beliefs in her capabilities approach. Nussbaum views her theory of justice as a form of political liberalism. In modern societies citizens espouse diverse conceptions of
the good life. They vary not only in their overarching worldviews, but also in their distinctive appropriations of a given worldview, and they cherish freedom to shape their lives according to these appropriations. Political theories must thus conceive political norms in ways that people of various persuasions and cultures could accept. This is especially pertinent in international settings, like human rights institutions, laws, and policies, where citizens of many nations need to be compelled on common practices.

Nussbaum takes great pains to articulate her vision of political liberalism in ways avoiding metaphysical commitments. She contrasts her account with “perfectionist” liberalisms of Isaiah Berlin and Joseph Raz. Berlin bases his political judgments on the doctrine of value pluralism: there are many incompatible ways of life, all equally cogent, sincere, and worthwhile—and thus incapable of being adjudicated or unified according to some objective standard. Raz accepts value pluralism but centers his political philosophy on the ideal of autonomy: human life has genuine meaning only through self-directed fashioning and the state should foster multiple ways of self-realization to honor this meaning. Both Berlin and Raz believe that value monism is not only wrong on facts but also harmful for the psyche. As long as people believe others misled about life’s purpose, they will seek to convert unbelievers to the right cause, a practice that has wreaked havoc throughout history. Nussbaum finds these liberal tenets problematic because many

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222 Ibid., 10-14.

223 Ibid. 12-14. Here’s how Isaiah Berlin puts it in one of his last essays, “A Message to the 21st Century”: “If you are truly convinced that there is some solution to all human problems, that one can conceive an ideal society which men can reach if only they do what is necessary to attain it, then you and your followers must believe that no price can be too high to pay in order to open the gates of such a paradise. Only the stupid and malevolent
citizens would object to such sweeping claims about moral pluralism and autonomy. Most traditions, she observes, accept “internal pluralism,” the idea that many values are heterogeneous and might be difficult to harmonize, but they would reject that this entails a disharmonious reality with interminable conflicts, or they can endorse freedom to leave one faith or ideology for another, while denying that freedom itself, say, free creation of and play with values, is life’s overarching meaning.\textsuperscript{224}

Nussbaum follows John Rawls and Charles Larmore in articulating justice apart from any particular view of the real, the good, or the human. In formulating just norms, political liberalism should make claims only about the requirements of political life and let citizens find their own ways to incorporate these norms into their comprehensive doctrines. Both Rawls and Larmore offer two basic rationales for this so-called “freestanding” conception of justice that they believe most citizens could accept. One has to do with “burdens of judgment”: issues of ultimate meaning and value are very complex and disagreements about them persist despite either genuine efforts for rational resolution or government interventions to enforce unanimity. Avoiding coercion on such contested issues and seeking to ground political principles apart from solving them may thus seem to be a “reasonable”

\textsuperscript{224} Ibid., 10, 36-37.
The second rationale is respect for conscience. While many citizens, both religious and secular, may believe their comprehensive doctrines to provide the only true answers to life’s consequential questions, they may respect others’ freedom to face consequences through personal engagement. They may not value other persons’ doctrines, but they may value others’ personhood—their dignity to explore and realize the good through their own control. While Nussbaum appreciates “burdens of judgment” in supporting political pluralism, she thinks it is sufficient, and in many contexts more persuasive, to insist on respect for conscience alone. Many people with authoritarian—and one may also note rationalist—outlooks may contend that recognizing the truth in comprehensive matters is easy, but they may affirm the virtues of individual grappling with the truth and the vices coercing the right doctrine inflicts on self and community.²²⁶


²²⁶ Nussbaum, “Perfectionist Liberalism,” 19-21. Many religious traditions, Nussbaum argues, have embraced this insight from within their own history. Two prominent examples for her are Ashoka’s respect for different sects in India and American Founders’ insistence on the free exercise and non-establishment of religion in the Constitution. Nussbaum takes Jacque Maritain to be the first political liberal who grounds civic freedoms on respect rather than difficulty of judgment or political violence, and she views his work on drafting the Universal Declaration of Human Rights to foreshadow Rawls’ insights on working out practical political agreements among people of various convictions. (Ibid., 19) She draws attention to section 4.1 in his Man and the State titled, “Men Mutually Opposed in Their Theoretical Conceptions Can Come to a Merely Practical Agreement Regarding a List of Human Rights.” Man and the State (Chicago, IL: University of Chicago Press, 1951). In another essay on “Truth and Fellowship,” Maritain offers poignant insight into the nature of respect for conscience: “There is real and genuine tolerance only when a man is firmly and absolutely convinced of a truth, or of what he holds to be a truth, and when he at the same time recognizes the right of those who deny this truth to exist, and to contradict him, and to speak their own mind, not because they are free from truth but because they seek truth in their own way, and because he respects in them human nature and human dignity and those very resources and living springs of the intellect and of conscience which make them potentially capable of attaining the truth he loves.” “Truth and Human Fellowship,” in On the Use of Philosophy: Three Essays (Princeton, N.J.: Princeton University Press, 1961).
Respect for conscience, Nussbaum argues, should also sidestep theoretical criteria for reasonable comprehensive doctrines supporting political liberalism, as Rawls proposes, or for reasonable (dis)agreements allowed in public discussion about values, as Larmore suggests. To prop up the political virtues of rational cooperation, both Rawls and Larmore sketch epistemological norms for reasonable groundings of comprehensive beliefs that focus on coherency and fallibility. According to Nussbaum, such norms break with the abstemious attitude toward contested comprehensive claims political liberalism embodies, and, if enacted, they would disparage or restrict political commitments of many citizens, for example, in the US context, those espousing astrology, New Age beliefs, mystical and fideistic faiths, or mainstream religions, such as Christians insisting on the suprarational nature of the Trinity or Reformed Jews denying firmly set rationality when pondering moral quandaries.227 Political liberalism, for Nussbaum, should instead focus on the ethical content of “reasonable” doctrines and agreements. As long as individuals embrace the basic moral norms of political liberalism, including, most crucially, respect for political equality, liberty of conscience, and public exchange of reasons, their comprehensive doctrines are to be viewed as reasonable. The state should refrain from assessing and ranking comprehensive beliefs by weighing in on their evidential cogency. A judge and a legislator can reject a racist or patriarchal idea in a given outlook, but avoid denigrating how it is grounded, be it intuitionism, tradition, or revelation.228 In a similar vein, a public school may uphold the merits of logic and evidence in specific domains, like scientific inquiry.

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228 Ibid., 33.
while abstaining from extolling reason, rather than, say, faith, as key to addressing all human needs.\textsuperscript{229}

This comprehensive abstemiousness should apply for Nussbaum even in such fundamental matters as equality and truth. Liberal governments should avoid couching laws and policies in a language suggesting the metaphysical equality of humanity or the realist character of political discourse, for example, by affirming that all people are really—"deeply and truly" or "created"—equal\textsuperscript{230} or that democratic freedoms best insure unearthing truth.\textsuperscript{231} Political equality and objectivity must be stressed instead. Authoritarians should be compelled to accept equal political rights of their fellow citizens, to work, debate, vote, pursue education and public office on the same footing with everyone,\textsuperscript{232} and skeptics should consent to the state encouraging public frameworks of reason that seek genuine shared consensus on political norms, rather than promote games of rhetoric and power aiming at manipulation and control in advance of self-interest or amusement.\textsuperscript{233} Liberal theories inattentive to such distinctions foster what Nussbaum calls "expressive subordination," a privileging of ideas that denigrates how certain citizens live a good life.\textsuperscript{234} Defense of liberal ideals in comprehensive terms sets up a "religious establishment" of its own—be it conveyed in a secularized form—that turns some people

\textsuperscript{229} Ibid., 39.
\textsuperscript{230} Nussbaum, “Political Objectivity,” 896, 899.
\textsuperscript{231} Ibid., 897.
\textsuperscript{232} Ibid., 901-903.
\textsuperscript{233} Ibid., 894-896, 900-901.
\textsuperscript{234} Nussbaum, “Perfectionist Liberalism,” 35.
off from public commitments and others from democratic principles altogether.\footnote{\textit{Ibid.}} To be sure, some political liberal principle may be in tension with individual doctrines’ comprehensive beliefs and may lead some adherents to resent government overreach and others to question or abandon their worldview. These possibilities are unavoidable in any type of polity. Political liberalism does not seek justification by ensuring equal growth of various comprehensive doctrines, and it does not pretend to being value neutral. Political liberalism has a strong core of moral norms that everyone should embrace, unless they can convince the majority to change the constitution. These norms target the most extensive forms of mutual respect and responsibility between citizens of different convictions that, say, those very same authoritarians and skeptics may not enjoy under a different political arrangement.\footnote{\textit{Ibid.}}

It is worth spotlighting the ethos of Nussbaum’s abstemiousness from comprehensive beliefs in political conceptions of justice. The demand for abstemiousness is ethical, not epistemic, aiming to bring as many citizens and nations to pursue shared goods without abandoning their core identities. There is no presumption that all comprehensive beliefs about value and reality are irrational or subjective. Nussbaum herself is committed to robust beliefs about determinate features of flourishing, value realism, and metaphysical equality.\footnote{Nussbaum, “Political Objectivity,” 888, 901.} The demand is part of the moral account of human capabilities that everyone could endorse when reflecting on the valued features of human wellbeing and the requirements for their unfolding through time. Our histories tell us that enforcing

\footnote{\textit{235 Ibid.}}
\footnote{\textit{236 Ibid., 37-38.}}
\footnote{\textit{237 Nussbaum, “Political Objectivity,” 888, 901.}}
unanimity on matters of ultimate meaning does not save souls but spawns soulless conformity and violent uprisings. Experience in both authoritarian and voluntary communities shows that genuine faith and thriving public ideals require freedom to question, fall short of, add something distinctive to, and stand apart from their tenets. Also, the abstemious attitude does not presume some abstract public reason or independent criteria of political judgment hovering above our histories and traditions. Nussbaum is clear that her account of capabilities is freestanding in that it seeks confirmation through an overlapping consensus from within comprehensive doctrines, not apart from them.

All polities are challenged to specify and implement capabilities by drawing on their distinctive experiences and cultures. As noted earlier, a “threshold” for adequate education, health, and wages may differ in developed and developing countries, or political freedoms may allow for restricting anti-semitic materials in Germany and be more permissive of hate speech in the United States under First Amendment guarantees.238 Further, abstemiousness from comprehensive doctrine is very narrow. It pertains to formulations of law and policy, legal opinions, and official pronouncements on ideas underpinning political order and public goods.239 Again, the concern there has moral import—to seek agreement on values vital to common life without unduly dividing or alienating citizens on matters central to their self-understanding. This means that while we may find it incomprehensible how an ethical norm or the overall political order may hold together apart from some comprehensive idea and we may insist on that incomprehension in public debate, when the conversation stops and calls for settling on formulation, we can suspend that insistence and

238 Nussbaum, Creating Capabilities, 108.
do our best to articulate the norm in ways that, on the one hand, convey the core implications of the moral ideal at stake and, on the other, account for comprehensive perspectives from which all conversation partners reason about it. Nussbaum’s own account of capabilities aims to model just that in being “thick” but “vague”: it is specific and detailed enough to recognize the substantive and determinate character of human flourishing but open-ended enough to leave room for questioning and varied appropriations within diverse polities.

Holistic Flourishing

Nussbaum’s conception of rights as capabilities is explicitly holistic and social in character. All of the capabilities need to be guaranteed for adequate human functioning, as each points to indispensable valued experiences. You cannot neglect some by overcompensating in others, for instance, eliminate elections and increase wages. Further, understanding the distinctive value of any capability and what is required for its adequate functioning calls for examining how it intertwines with others in shaping the life of individuals in various practices and affiliations, how, for example, education and health enrich work and civic duty or lack of political liberties erodes family and religious life. This examination involves assessing which life goods matter more in one activity and context and less in others, when they can be negotiated and when they must be nonnegotiable. When grappling with balancing resources and opportunities, governments need to recognize capabilities’ heterogeneity and intrinsic, incommensurable worth so that clashes leading to

\[240\] Nussbaum, Creating Capabilities, 44-45.
inadequate support of some good are not seen as mere cost-benefit tradeoffs but “tragic choices” that need to be minimized.\textsuperscript{241} So conceived, capabilities offer no hint of atomized entitlements with thin contents—the brunt of MacIntyre’s criticism of secular rights.

Neither is capabilities’ subjective dimension, what is owed each person, can be seen apart from their objective dimension, what each person owes others as well as the society at large. Nussbaum’s vision of persons as vulnerable, interdependent selves in asymmetrical relationships of need and responsibility highlighted in the previous chapter makes this ever so clear, as does her work in applied ethics. Her writing on specific moral challenges facing modern societies—gender equality,\textsuperscript{242} humanities in education,\textsuperscript{243} sexual discrimination,\textsuperscript{244} religious intolerance,\textsuperscript{245} care for the disabled,\textsuperscript{246} or global development\textsuperscript{247}—examines deep links between varied areas of personal and communal flourishing and suggests virtues and practices needed to strengthen these links.

We certainly cannot evaluate rights, as well as other norms and issues of basic justice, apart from considering questions of holistic flourishing. As our goods weave into varied patterns and tapestries, alongside tangles and knots, such questions challenge us to synthesize competing values and responsibilities toward an experience of overall meaning.

\begin{itemize}
\item \textsuperscript{241} Ibid., 36-38.
\item \textsuperscript{242} Nussbaum, \textit{Women and Human Development}.
\item \textsuperscript{244} Nussbaum, \textit{From Disgust to Humanity: Sexual Orientation and Constitutional Law} (Oxford, UK: Oxford University Press, 2010).
\item \textsuperscript{245} Nussbaum, \textit{The New Religious Intolerance: Overcoming the Politics of Fear in an Anxious Age} (Cambridge, MA: Belknap, 2012).
\item \textsuperscript{246} Nussbaum, \textit{Frontiers of Justice}, chs. 2 and 3.
\item \textsuperscript{247} Nussbaum, \textit{Frontiers}, chs. 4 and 5.
\end{itemize}
and purpose. As already noted in the third chapter, this synthesis and experience are hard to come by. No matter our earnestness and effort, we struggle maintaining commitments in different occupations. We seek fulfillment in diverse spheres of life—family, work, leisure, religion, culture, civic service—each with distinctive goods and communities shepherding their norms and practices. Identifying what overall fulfillment may be for each person and group, how all goods should link and rank in different contexts, is a task worthy of Sisyphus. How would we grade accomplishment and choiceworthiness in the lives of Leo Messi, Mother Teresa, Kant, Beethoven or Einstein, or of people centering their values around work for MoMa, Google, Salvation Army or Congress? Appreciating and harmonizing all goods, as well as accounting for our failings to live up to them, even within a single sphere that we are intimately familiar with or expert at is challenging, as is building consensus with intimate others or fellow experts even when we are all committed to the same cause. Few sober-minded educators in higher learning venture offering a fully integrated vision of an ideal discipline, university, or even department, and if they do, they rarely, if ever, recommend it to be emulated everywhere. Scholarly inquiries differ in their objectives and methodologies, and academic institutions in their missions, student bodies, and relationships to sponsors and public groups. The same soberness is expected of experienced entrepreneurs, artists, pastors, politicians, parents. Besides finitude of judgment, we recognize our biases to self, friend, stranger, and foe, and we try to keep them all in check. We also observe a variety of responsible visions in different activities, even if they are not all equally promising or equally flawed. We often encourage this variety to see what each vision is like in practice, what its drawbacks and advantages may be. We insist on having options to different hospitals, schools, technologies, banks, media, and businesses of
all types. Even once we identify fitting options, we want them to converse and compete with alternatives as well as encourage internal critique and reform, to be accountable to failures and open to new choices.

These experiences impress on us that even as we strive for holistic visions of our values and responsibilities, we do well to resist complete and perfectionist accounts of these visions, both within a single sphere of life and across them all. We may hope that specialists in each area could outline a coherent picture of their practice, show what it requires from the others for its adequate functioning, and suggest implications for political justice and human thriving as a whole, but that they eschew unquestionable, all-embracing insight, be they science-fiction writers, lifestyle gurus, newspaper columnists, bishops, physicists, economists, judges, or politicians. We would not want any one authority, institution, or group of experts to be responsible for defining and especially enforcing the terms of holistic flourishing; they all have a role to play in understanding how our values cohere and enacting what they demand of us in different contexts.²⁴⁸ We would certainly not want a government to be our ultimate guide on full flourishing. We could expect the state to make sure that we have adequate resources and opportunities to pursue a good life on equal footing with everyone but not mind and manage our every step and good. Whatever perfections we take to be part of flourishing, we demand to grapple with their details in voluntary communities, not a totalitarian regime. In this vein, we may well agree with Nussbaum that at least in politics our account of the good be better viewed “as a

²⁴⁸ For detailed insight on how this vision of pluralistic politics can work, see Robin W. Lovin, Christian Realism and the New Realities (Cambridge, MA: Cambridge University Press, 2008), ch. 3 and William A. Galston, Liberal Pluralism, chs. 5-7.
benchmark for various human freedoms, rather than a source of discipline for the wayward.”

Some religious critics encourage accepting temporal limits to reconcile goods and responsibilities while insisting on faith in their unity beyond history. On their account, moral obligations are fully meaningful only if they are adjudicated and made compatible from the transcendent standpoint of unified value. Undoubtedly, hope for harmonization of values may be a powerful moral source amid the despair of reaching a truce with your adversaries or settling loyalties to various beloved. Still some caution is called for in yearning for the rational unity of value amid this hope. A normative moral order and a meaningful life need not hinge on a single scale and hierarchy of values, transcendent or immanent. We can imagine seeking flourishing in fair and benevolent bonds in a world where some choices resist rational adjudication and demand finding meaning and integrity in tolerance and compromise—both within and beyond history. A life of mutual guidance and support does not require refereeing every good, systematizing every practice, resolving every disagreement. We may and should insist on prioritizing some values in certain contexts of life—like feeding the hungry, healing the sick, protecting the abused, or whatever urgent needs and indispensable goods may be conceived in another period of human life—but not on sketching and ranking all values in all activities and circumstances—like setting fixed criteria for deciding whether first to build a public museum or athletic facility in a new town or for privileging the vocation of a social worker.

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249 Nussbaum, “The Good as Discipline,” 313. In this essay, Nussbaum, contrasts liberal versions of Aristotelianism with two nonliberal versions: moralist seeking to encourage virtue and Marxist seeking to discourage excess.

or activist over engineer or architect. We can be committed to justice, love, common
good, or human rights while appreciating different virtues and ways of pursuing them in
diverse activities, affiliations, and polities—as well as enduring the ambiguity of whether
we are making right choices. As we will explore in the epilogue, a life bereft of doubts,
errors, risks, and losses may be unrecognizable for and unworthy of a human being.

Shared Reasons

Our conception of shared reasons in public discussions should aim for the same humility
and resistance to complete and perfectionist accounts. Both liberal theorists and their
religious critics often demand too much from rational moral discourse. Both presume that
we cannot converse meaningfully unless we settle on acceptable sources of insight and
norms of applying them. Both see their opponents’ view of rationality as a conversation
stopper: apologists of public reason fear comprehensive belief to be impervious to
critique and detractors view liberal proceduralism to inhibit practical decision making and

251 William Galston offers a compelling vision of moral pluralism that accounts for the
heterogeneity and incommensurability of values while stressing the overriding primacy of
some over other norms. Liberal Pluralism, especially 29-35. For a religious vision
underlining benevolent rather than rational harmonization of diversity, see Jean Bethke

252 Richard Rorty coined the term in his “Religion as a Conversation Stopper,” Common
Knowledge 3, No. 1 (1994): 1-6. For a penetrating critique of Rorty’s conception, see Jeffrey
esp. 85–91 and “Rorty on Religion and Politics,” Brown.edu,
http://brown.edu/Research/ppw/files/Rorty on Religion and Politics.pdf; and Nicholas
2003): 129-139. Rorty somewhat relented in his views after Wolterstorff’s critique in
Ethics 31, No. 1 (Spring, 2003): 141-149.
authentic religious witness. Both apologists and detractors may begin seeking mutual understanding by agreeing that moral life is too rich and complex to produce a full account of reasons that may best guide it as well as persuade and respect others. Just like we struggle accounting for how all goods cohere or what they entail for basic justice and holistic flourishing, so we cannot adequately theorize all reasons for understanding and implementing these goods in varied arenas, including legislature, jurisprudence, and life of faith. Both apologists and detractors may loosen their rules of rational engagement while recalling that many reasons are formed—and reformed—in the course of conversation, rather than only in advance of it, as some apologists suggest, and between, not only within, different traditions, as some detractors advocate.

While liberal theorists disagree over freestanding and comprehensive conceptions of rights and justice, most still encourage seeking reflective equilibrium in public forums and counsel enacting political norms based on reasons all earnest citizens could adopt in good faith. The virtues of reflective equilibrium are certainly needed in all settings of life.

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255 For example, Robert Audi advocates what he calls “theo-ethical equilibrium” in public debate that requires synthesizing religious grounds for action with ideologically neutral rationales; *See Religion in the Public Square: The Place of Religious Conviction in Political Debate* (Lanham, MD: Rowman and Littlefield, 1997), 21-24.
In political life they help test our beliefs and values by challenging us to conceive and critique them through others’ experiences and practices. They also help contain our ambitions, reminding us that we seek justice rather than holiness or perfection in the realm of law. Only when challenged to justify the values of our community or pursuit to others in ways they can understand and appreciate, do we often recognize that the precept or practice we advocate may dovetail with our vision of the good or way of life but be inapt for wider adoption, at least through coercive measures. And these virtues, as Nussbaum stresses, also help us to affirm shared values while respecting others’ freedom to conceive and pursue the overall good in accordance with their conscience.

Liberal political theory, however, needs better recognition of the following: testing beliefs, checking ambitions, and respecting conscience also require openness to straightforward engagement from multiple sources and frames of insight. In each sphere of life mentioned above, we have distinctive ways of understanding human goods in specific practices and communities. In seeking discernment about the demands of both justice and holistic flourishing, we must let relevant individuals and groups in each sphere speak on terms specific to their practice, not only on terms familiar and convenient to our persuasions and pursuits. When universities and museums advocate their values by appealing only to the goals of other institutions, say, to secure funding from private business and government, they cannot help reducing their distinctive goods and reasons, and we cannot help sidestepping their full wisdom on our occupations and lifestyles—on both the requirements and higher possibilities of a flourishing life. Similarly, an investment banker skimming novels only to refine his phrases misses out on refining his aspirations, and a novelist scanning investment strategies only to enrich his stories misses out on
enriching his finances and creative freedom or philanthropy. Good legislators, judges, and public officials, including those dealing with human rights law and policy, also follow this insight, or should. In their work of deliberating, interpreting, and implementing laws, they take guidance from numerous experts in other fields, as well as the experiences of ordinary people. They may encourage them to speak in ways fitting to the purposes of their functions and occasions—which may be stricter in court hearings and congressional committees and more easygoing in town hall forums, meetings with lobbyists and social activists, or public policy conferences—but getting to the heart of the matter often requires discerning others’ own particular way of understanding the issues at hand, on terms germane to their discipline, institution, conviction, or experience, even if one does not agree with or even fully understand what is said.\textsuperscript{256}

Religious or any other comprehensive insight may also be heeded for full view of justice and flourishing in different contexts; it too needs to be respected and can help test beliefs and check ambitions in political life. This is readily recognized in public affairs where religious practice is at issue. You need to hear religious people in their own voice on the details and demands of their faith to assess what respect for liberty of conscience may mean in military service; what educational norms and institutions may need protection, like religious and home schooling; what patients’ needs may require in medical care, like chaplaincy in public hospitals; or what exceptions may be made in the workplace for religious holidays, rituals, and clothing. Yet religious and other comprehensive insight can

\textsuperscript{256} For broad and nuanced insight on how this kind of moral discourse can unfold in political life, see Robin Lovin’s chapter on “Unapologetic Politics” in \textit{Christian Realism}, 117-151.
be engaged on any issue of public importance, even if it should not be privileged as an overarching state or global ideology for reasons noted earlier. In a United Nations convention or European Court of Human Rights hearing addressing the predicaments of victims and perpetrators of domestic violence, someone may feel compelled to illuminate the discussion in terms of *dukkha*, “three poisons,” and interdependent co-arising, and others in terms of distorted mimesis, Stockholm syndrome, false consciousness, adaptive preference, or *Oedipus Rex*. Each interlocutor may convey something perceptive about the human condition and the goods or harms at stake from which one may learn something, even if remaining confused or unconvinced by the overall interpretive scheme. If, as Nussbaum insists, our account of the good and justice is concocted from various sources of insight—sciences, arts, mythologies—257—we may endorse all these sources for assessing and enacting rights and other public norms in various contexts, with appropriate recognition of contexts’ purposes and ambits. Because this account is also fallibilist and open-ended, we may insist on this endorsement.

There is certainly wisdom in avoiding contested comprehensive beliefs in formulations of law, official statements by elected officials on public values, and certain policy implementations—to compel diverse citizens to embrace political norms without demoting their identities and ultimate values. Still we may convey respect for conscience not only by keeping silence on comprehensive beliefs but also articulating their diversity and complexity. For example, in formulating human rights documents or their public advocacy, rather than dodging the sources of human dignity, as Nussbaum prefers, we can

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voice the variety of views underpinning the concept, including those that feel no need for it and contend that the concept itself is comprehensive. This articulation may be cumbersome, but Nussbaum appears comfortable with cumber if doing so furthers respect for conscience and justice. She illustrates at length the conceptual hoops a US President might jump through to distinguish between political and metaphysical affirmations of equality when giving a speech to a conservative religious university affirming patriarchal beliefs. 258

We may even insist on skirting only contested claims in our public formulations and apologetics, and drop the qualifier “comprehensive,” which itself may be contested, as well as divisive and disrespectful, for many. Whatever we decide to seek mutual respect, we would do well to recognize comprehensive views lurking behind most, if not all, of our basic

258 “You hold a doctrine that women are subordinate to men, and yet you have also agreed to affirm our political doctrine, that women as citizens are fully equal. You affirm that doctrine, I shall assume, not just grudgingly, as a modus vivendi, but as a reasonable basis for political life. Supporting this political doctrine entails supporting full legal equality for women and an end to all forms of sex discrimination, including discrimination by private employers and including sexual harassment in the workplace.... Insofar as you oppose basic rights that are entailed by the basic structure of the political conception, you will not be persecuted, but your proposals, being unconstitutional and in the political sense unreasonable, will never come up for a simple majority vote. I also put you on notice that any education that will be accredited will include teachings about the full equality of women as citizens, and about the fact that their rights are fully equal to those of men and follow them wherever they are, even when the threat to those rights is in the bosom of the family. If, however, you agree to affirm and respect all these basic rights that follow from the basic structure of the political conception, we will treat your comprehensive metaphysical doctrine with respect, and we will never say that it is a second-class or an unreasonable doctrine. This means that we will not only protect your speech—this we do for unreasonable doctrines as well—but we will also treat you as holding a doctrine that supports the overlapping consensus that regulates our political conception, and that in that sense respects the equal worth of your fellow citizens. How you square your membership in the overlapping consensus with aspects of your comprehensive doctrine is your business....” Nussbaum, “Political Objectivity,” 902-903.
ideas of rights, justice, and political order. We could veil their lexical force in articulation but would still have to face their clarification when challenging or justifying certain practices. We have learned this well through the history of interpreting the full meaning of human equality, drawing on all kinds of metaphysical claims to embrace progressively more groups under its affirmation. Comprehensive ideas surface in many other current debates. Welfare and tax policies depend on beliefs about how people gain talent and earn desert or how charity links with fairness and flourishing, criminal sentences on when children reach full personhood or what defines free will and action, medical procedures on when life begins and ends and what constitutes autonomy, marriage laws on the goods and purposes of family life, foreign policies on how sovereignty figures in statehood, public education curricula on the meaning of liberty and its value in exercising varied capabilities. In some public contexts, we even find it fitting to pass judgment on comprehensive tenets. When teaching human rights values in history and civics in public schools, we struggle explicating gender or racial equality and condemning patriarchy, slavery, colonization, or genocide without critiquing overarching beliefs and values in certain historical ideologies and regimes, like Medieval Inquisitions, Soviet Gulags, or ISIL. If we can find ways to question dubious scientific beliefs rationalizing past or present moral atrocities while safeguarding respect for science as an enterprise, we can also find ways to question dubious religious views underpinning moral values while respecting a life of faith. Comprehensive ideas about existence, truth, good, and human nature are unavoidable in ethical evaluation. While we should respect reasonable disagreement about them, we also cannot help keeping our moral agreements reasonable without debating them, even if many of us notice this only when our familiar norms spawn divergent practices or cannot accommodate new, or newly
cognized, experiences and values. All political theorists may soon become more aware of this as AI and biotechnologies reconfigure human capabilities and prompt urgent questions about what needs and lifestyles are “real,” human, and worthwhile, as well as just.\textsuperscript{259}

In this vein, we also cannot be expected to affirm only those rights, or their specification in laws and policies, on which we share common sources and criteria of judgment.\textsuperscript{260} Much of the time we can barely agree on common norms and ways of implementing them; requiring that we do so on common reasons would make for very scarce public commitments. Some secularists may advocate freedom of religion because they avow metaphysical agnosticism, and others are sure of their metaphysical conclusions but deem their enforcement a recipe for upheaval and violence. Some theists, in turn, value liberty of conscience only because they believe it best fosters genuine conversion and piety, while others discourage questioning religious matters within their own communities but support a wider polity that leaves their teachings alone. The reasons shaping the “overlapping consensus” on public norms are varied; some are shared, some differ but may harmonize, and some remain at cross purposes.

We often reason differently with different people, depending on their backstory, culture, expertise, ideology, agenda. We tailor reasons to suit each conversation, sometimes working them out in the process, with some convincing one person while befuddling

\textsuperscript{259} Interestingly, some philosophers already ponder whether robots can be viewed as moral agents. See David J. Gunkel, \textit{The Machine Question: Critical Responses on AI, Robots, and Ethics} (Cambridge, MA: MIT Press, 2012).

\textsuperscript{260} For example, in \textit{The Inclusion of the Other}, Jurgen Habermas insists that genuine public agreement is premised on identical reasons: “Anything valid should also be capable of public justification. Valid statements deserve the acceptance of everyone for the same reasons.” Habermas, \textit{The Inclusion of the Other; Studies in Political Theory} (Cambridge, MA: MIT Press, 1998), 86.
others. We might persuade different persons on the same issue without using a single common argument, while keeping earnest with both our locution and interlocutors.

Further, however skilled we may be in reflective equilibrium, we can hardly master every important way of evaluating moral practices to recognize their faithful and responsible use from within, to know whether someone espousing a given belief could sincerely support a cause at issue based solely on that belief.\textsuperscript{261} Many a time we think that certain ideals are actionable only on our view of the world and we puzzle over how others could find them compelling. The commitment to human rights itself illustrates this well. Apart from the nuances pursued in this work, many religious people see secularism as too individualistic and shallow, and their secular counterparts see religion as too intolerant and otherworldly, to accept the imperative universality of human rights. We may do our best to fathom how others reason about rights or issues of justice and how they could affirm a given position from within their outlook, yet if we fail to agree on what should sway our mutual reason, we could still rest content with agreeing on what should sway our mutual action.\textsuperscript{262}

Nussbaum’s approach of internal evaluation outlined in another chapter accords with this insight into public persuasion and consensus. In promoting issues of global justice

\textsuperscript{261} Nicholas Wolterstorff offers perceptive observations on how public discourse works in a democracy while picking holes in the idea of “neutral” reasons or principles in his engagement with Robert Audi in \textit{Religion in the Public Square}, especially, 109-120 and 157-163.

\textsuperscript{262} Legal theorist Cass Sunstein uses the idea of “incompletely theorized agreements” to show how people with divergent ideological commitments can settle on specific policies. He observes that in the Federal Sentencing Commission, while participants disagree on theories and purposes of punishment—for example, stressing deterrence, retribution, or education—they agree on what punishments should be accorded in particular cases. Cass Sunstein, \textit{Legal Reasoning and Political Conflict} (Cambridge, MA: Harvard University Press, 1996), 35–61.
in intercultural contexts, she encourages immersive critique that draws on evaluative patterns distinctive to a given society’s traditions, to seek understanding how a contested norm is experienced and assessed within these traditions, whether their own evaluations reveal inconsistencies, uncertainties, or gaps. Nussbaum uses Aristotle’s example in challenging Athenian valorization of honor as the most-sought-after good. He explores Greek myths and customs to show that honor is cherished only when combined with excellent conduct and that vice or mistaken credit can turn it into shame. Similar tensions can be scrutinized in patriarchic cultures that endorse women’s responsibility in certain public settings and prize individual worth and equality generally, or societies criminalizing same-sex relationships while defining the virtues of married life in ways that could be readily extended to them. Of course, internal critique may be insufficient and call for external ideas in unearthing evaluative omissions and discrepancies. Still external resources can be most effective when connecting with individuals’ or communities’ own evaluations of their experiences. A doctor demonstrating a dire diagnosis to a skeptical patient often has to show not only test results but also probe the patient’s symptoms, which may be unrecognizable to him. If the patient is unconvinced, one may have to wait for the symptoms’ progress before he accepts his plight, begins therapy, and experiences conviction in recuperation. Moral persuasion could be similar, and reveal that it entails more than deliberation. Sometimes, immersive critique calls for embodying a given norm

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263 See Nussbaum’s elaboration of intercultural critique in the context of Indian society in “Internal Criticism,” 307-317. Also note similarities to Stout’s “immanent” and “transcendent “criticisms in Ethics After Babel and Democracy and Tradition; MacIntyre’s outline of intertraditional dialogue in Whose Justice?, chapters XVIII-XX, could also be appropriated.

alongside others, waiting for others’ recognition of struggles or tensions, and exploring how certain virtues and practices could address them—often in hesitant, piecemeal, trial-and-error fashion. And it also calls for openness to one’s own struggles and tensions as well as mastery of new virtues and practices.

Sources of Obligation

What of the sources of obligation? As we saw in the third chapter, Nussbaum is highly attuned to the social and emotive bases of justice, finding contractual models of human cooperation inadequate to ground robust moral commitments. Only of a view of human functioning stressing intrinsic moral concerns nurtured amid unequal dependency and shared goods could account for the full demands of justice. In examining issues related to moral motivation in public life, Nussbaum often seeks tethering her insights to the freestanding conception of political liberalism. Her central work on the subject, Political Emotions; Why Love Matters for Justice, fits that pattern. The inquiry is framed not as how love and other moral emotions can be conceived as part of the most meaningful life but how they can help to keep a just society “stable” over time. Stability of justice is a primary unresolved dilemma in liberal political theory, on Nussbaum’s account. How do you sustain commitments to public goods and constrain impulses threatening them without encroaching on key liberal ideals of pluralism and respect for conscience? Traditional liberal theorists eschew such particularistic emotions as love, deeming them too partial and volatile. Prudential and rationalistic conceptions of moral obligation are preferred instead. In this work Nussbaum chiefly focuses on critiquing rationalistic, principle-oriented
conceptions, such as respect for reciprocity and impartiality, with Rawls and Habermas as illustrative proponents.\textsuperscript{265}

Nussbaum’s underlying criticism pivots on Aristotle’s appraisal of Plato’s ideal city in which all personal ties are cut off in favor of equal concern for all other citizens. “There are two things above all that make people love and care for something, the thought that it is all theirs, and the thought that it is the only one they have. Neither of these will be present in that city,” says Aristotle.\textsuperscript{266} He likens Plato’s community to a household with too many keepers where no one feels committed to any chore and person, leading to “watery” affection and responsibility among everyone.\textsuperscript{267} The key insight here is that deep, enduring moral motivations are eudaimonistic in character: we commit to care for people and pursuits we regard personally meaningful and worthwhile; we struggle grieving for or marveling at complete strangers whose needs and aims seem alien or far removed from ours.\textsuperscript{268} Nussbaum distinguishes eudaimonism from egoism: other persons are still viewed as ends in themselves but their concerns are embraced as one’s own.\textsuperscript{269} Compassion is the basic moral emotion capturing this insight as it imagines and internalizes others’ vulnerabilities and strivings as part of personal wellbeing. Compassion has a four-tiered structure: it grasps the other’s plight as grave rather than trivial, as beyond choice or fault

\textsuperscript{265} Nussbaum, \textit{Political Emotions}, 220-225.
\textsuperscript{266} Aristotle, \textit{Politics}, 1262b22–23.
\textsuperscript{267} Ibid., 219.
\textsuperscript{268} Ibid., 11; For a more extensive elaboration of eudaimonism, see Nussbaum’s \textit{Upheavals of Thought}, 32-32 and 49-56.
rather than self-inflicted, as plausible within one’s own circumstances, and as valuable to one’s own flourishing.\textsuperscript{270} What makes compassion possible? Love: “intense attachments to things outside the control of our will.”\textsuperscript{271} By propelling us to get involved in others’ particular pursuits and struggles, love nurtures compassionate regard for their yearnings and excellences alongside quirks and flaws. Love puts a specific face in front of ghostly abstractions of impartiality and urges beholding and bonding with the whole visage—warts, scars, and all. Steely respect for others’ equality, Nussbaum argues, is powerless to address fear, shame, and envy we tend to exact on strangers and rivals; only loving engagements in the details of others’ suffering and thriving can help us recognize shared humanity with all persons—shared helplessness and vice and shared desire for help and virtue.\textsuperscript{272} Love can, indeed, be flighty and narrow; it does need impartial principles to balance and expand its bonds of concern; yet without love disinterested duty is but an “empty shell.”\textsuperscript{273}

The Stoics best exemplified the denouements of universal fairness stripped of particular attachments, for Nussbaum. Their cognitive therapy to shed all local and partial ties could not help leading to a “death within life,”\textsuperscript{274} for giving up loves of family, friends, vocation, or country for the sake of universal law and humanity entails giving up human life as we know and value it. A life where every cherished object, relationship, and practice is to

\textsuperscript{270} Ibid., 142-145; See also Nussbaum, “Compassion as Basic Moral Emotion”; “Compassion and Terror;” and Upheavals of Thought, Part II.
\textsuperscript{271} Nussbaum, Political Emotions, 15.
\textsuperscript{272} Ibid., ch. 10.
\textsuperscript{273} Ibid., 396.
\textsuperscript{274} Ibid., 224.
be universalized loses vigor and meaning, turning into “the vain solemnity of a procession; dramas played out on the stage... puppets pulled by strings,” as Marcus Aurelius put it in one of his cathartic mind exercises.275 Wine becomes just droplets of water, an anthem a string of letters, a home a pile of clay and wood, a beloved a mass of flesh and bones. In *Upheavals of Thought*, Nussbaum illustrates this predicament by drawing on Dickens’ *Hard Times* depiction of utilitarian rearing in the Gradgrinds family. The children, taught to shun partiality and attachment, grow up to be incapable of discerning others’ genuine needs and differences between social responsibilities. Their perfectly rational—fact-full, emotion-free—education turns them into moral brutes.276

How do we cultivate compassionate love in a liberal polity? We would likely be advised to avoid insisting, at least in formal contexts of public advocacy, that love is eternal or “conquers all things.” Religious visions of love, Nussbaum says, have been important in the history of democratic ideals. She singles out King’s use of Christian imagery277 and Ghandi’s Hindu symbolism278 as especially powerful invocations of egalitarian affections. Yet we should always seek to harness such visions to the “general language” of a society to honor cultural pluralism and prevent ideological hierarchies and establishments.279 Nussbaum aims to present love, alongside other moral emotions, as a political virtue that citizens of different persuasions could embrace, be they skeptics or agapists. As such, love could take varied forms in public culture, those of family, romance, camaraderie, patriotism, patriotism, patriotism, patriotism, patriotism, patriotism, patriotism,

275 Ibid., 223; Marcus Aurelius, VII3.
278 Ibid., 242-246.
279 Ibid., 387.
or geography;\textsuperscript{280} love would insist on shared goods and responsibilities but resist homogeneity and conformism;\textsuperscript{281} and love would encourage questioning, dissent, and satire to keep alert to conceit and complacency.\textsuperscript{282} Love could even be wedded to a “civil religion,” but it would be the religion of Mill and Tagore, rather than Rousseau and Comte—it would sustain moral complexity, individual freedom, and social diversity while staving off authoritarian orthodoxies.\textsuperscript{283}

Nussbaum may at times be overdrawing the merits of love and compassion over dispassionate principlism. We cannot become involved with and develop affection for everyone who needs our moral regard. Often we have to give others their due without even fully knowing or agreeing with how our dues are used, be it when we pay taxes or donate to charities. Principled esteem for duty is an important part of moral life, as you recycle trash, work tedious jobs to keep afloat and pay debt, blow the whistle on your employer, or carry out mindless chores for a drill sergeant. Still Nussbaum’s basic insight into moral motives holds true: we can fully discern and fulfill what justice demands only if we seek linking others’ flourishing with our own as part of a valuable life. At the very end of Political Emotions she probes the instrumental and intrinsic “mattering” of love for justice. Is love like “a Swiss army knife (and let’s suppose that there’s no other tool that can do various important jobs as well as this knife can), or is it something with its own distinctive value and beauty, without which our public lives would be incomplete?”\textsuperscript{284} She uses Iris

\begin{itemize}
\item \textsuperscript{280} Ibid., 381-382.
\item \textsuperscript{281} Ibid., 390.
\item \textsuperscript{282} Ibid., 7.
\item \textsuperscript{283} Ibid., chs. 2-4.
\item \textsuperscript{284} Ibid., 391.
\end{itemize}
Murdoch’s parable of an aristocratic mother-in-law, M, who treats her lower-class daughter-in-law, D, with polished propriety while masking distaste and annoyance. Upon coming to terms with her classism and resentment, M decides to view D “justly and lovingly” so that eventually she internalizes the sentiments she had simulated before.\textsuperscript{285} Like Murdoch, Nussbaum judges this inner effort and transformation to be worthwhile in itself, even though outward actions may remain the same. If we can “admire” as more “appealing” and “attractive” the affections of a loving versus dutiful parent, “why, then, would we suppose that in one of our most important roles in life, that of citizen, an empty shell is all we need to be?”\textsuperscript{286} Well and good. Yet in prodding our evaluation of justice and flourishing toward embracing the worth of love in civic life, Nussbaum cannot avoid grappling with comprehensive convictions: love can matter for justice as means and an end only if we experience the bonds love aims to create as really—“truly and deeply”\textsuperscript{287}—constitutive of flourishing. Love leads us to face many flaws and failings, in both self and other, as well as many discontents and conflicts in coping with them. Only if our evaluation can ascertain these flaws and failings as fitting with flourishing, can we affirm love as a choiceworthy ideal, personally and politically. We have already examined in the third chapter how partial validation of benevolence amid fragmentation and tragedy can be upheld within a view of life professing mystery about human origins and destiny, and we will offer further thoughts in the epilogue.

\textsuperscript{285} Ibid., 394-395.
\textsuperscript{286} Ibid., 395-396.
\textsuperscript{287} Nussbaum, “Political Objectivity,” 896.
Morality and Human Rights

Moral Teleology and Human Rights

MacIntyre offers trenchant commentary on the confusions of ethical theories sidestepping human ends and on the problems they help perpetrate in personal and public life through the rule of “aesthetes,” “therapists,” and “managers” who manipulate, soothe, and maneuver rather than challenge human choices. Yet his portrait of modern selves and communities caricatures and obscures as it illustrates and enlightens. To be sure, the “individualism” he paints in liberal societies has a character distinctive to the forms of life developing in secular, pluralistic, free-market democracies after the Enlightenment. Yet the basic core of that “individualism” is part of human nature throughout history. Muddled, self-assured reasons and narrow, self-serving goods have always limited and harmed us. They often seem more salient and virulent for each generation than in generations past. This too is part of human nature. We may presume that a medieval merchant or monk certain of his telos was just as likely to fear, shame, and envy strangers and rivals as a Millennial entrepreneur or grassroots activist. Further, what modern societies may have lost is not so much teleologies as confidence about their uniqueness and unity. More than ever before we recognize plurality and ambiguity in our ends. For good and for bad. For good, because we may be less likely to mistake our own ideals for those of God or universal reason. For bad, because we might be more likely to give up hope in finding personal good in common good and to seek ideals within narrower circles of concern, of our family, profession, leisure, social cause, political faction, or religious identity. MacIntyre’s prescriptions may exacerbate, rather than challenge, this narrowing of concern. We should

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288 MacIntyre, After Virtue, chs. 3 and 6
289 Ibid. and Whose Justice? ch. 17.
indeed better distinguish between varied goods, recognizing higher worth and dignity in some over others, and correlate them in more compassionate solidarities, but we should continue doing this while embracing, not cloistered from, each other, despite cacophony, discord, and disillusionment—this is also part of human nature, as well as flourishing.\footnote{For an incisive critique of MacIntyre’s reading of liberal democracies, especially in the United States, and of other critics who follow his insight, like Stanley Hauerwas and John Milbank, see Jeffrey Stout, Democracy and Tradition. In Blessed Are the Organized: Grassroots Democracy in America (Princeton, NJ: Princeton University Press, 2010), Stout offers a compelling account of how meaningful political action can unfold for people of different persuasions and backgrounds.}

repressions, ethnic genocides, and environmental disasters. No one is asked to give up their ultimate values and identity to support human rights. We can work on issues of global or national justice on whatever terms we deem responsible and faithful within our conception of the good life. We are also free to question and improve how this work is conceived and enacted. We can insist on suppler reasons, thicker goods, deeper virtues, bolder loves, broader solidarities, higher hopes and less of whatever we think causes our malaises—atomism, tribalism, consumerism, pietism, militarism, quietism, scientism, obscurantism, emotivism, fanaticism.

There are two reasons internal to MacIntyre’s comprehensive outlook to do this work alongside persons from different moral traditions, not only within one’s own. Reasons of truth and love. Like everyone else, Thomists live in the realm of “already there but not yet.” The final purposes of God’s Kingdom elude their judgment. They proclaim a faith seeking, not clinching, understanding. Whatever “Dark Age”292 they may imagine confronting, they need others’ light as much as their own to be guided through it. Confining “morality and civility” to the fellowship of true believers has blinded many a community to vicious circles of untruth. There may indeed be “barbarians” around and within, but “surviving” their barbarisms requires engaging, not withdrawing, from them. Agapic love cannot will otherwise.

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292 MacIntyre, *After Virtue*, 263.
EPILOGUE: FLOURISHING AND TRANSCENDENCE

“And why are you so firmly and triumphantly certain that only what is normal and positive – in short, only well-being – is good for man? Is reason mistaken about what is good? After all, perhaps prosperity isn’t the only thing that pleases mankind, perhaps he is just as attracted to suffering. Perhaps suffering is just as good for him as prosperity. Sometimes a man is intensely, even passionately, attached to suffering – that is a fact.”

In *Love’s Knowledge* Nussbaum devotes a concluding essay to reflection on the human yearning for transcendence. The essay begins with Odysseus’s renunciation of eternal love and pleasure with the goddess Calypso for mortal ordeals with his earthly wife Penelope. After finally finding heavenly rest and reward for his weathering “wave and war,” he longs to return to his terrestrial home to “let new tribulations join the old.” He leaves a life free of need and imperfection for a life full of pining and struggling. What would justify such a choice? The Greeks were enthralled with conjuring divine and human fortunes to demarcate their advantages and drawbacks. The issues at stake and their opinions, of course, differed. One tradition, scintillating in Homer and Sophocles and culminating in Aristotle, fascinates and compels Nussbaum. While recognizing human desire for immortality and perfection as intelligible, these authors treated this desire with some chariness. When one really imagines and thinks through what it would be like to live

295 Ibid., 365.
invulnerably and flawlessly, that life may lose much of its appeal and admiration. It may
seem stagnant and shallow by human standards of excellence and fulfillment. There may be
few if any values worthy of mortal venturing. No fears to face, no frailties to endure, no
vices to contend with, no honors and hopes to long for, no losses and sacrifices to bear. A
paradox lies at the core of human flourishing. While lacks and adversities are much loathed
and avoided, they also structure as well as texture the meaningfulness of our agency and
fulfillment. A life unencumbered with limits and trials would be neither perceived nor
valued as fully human. They are bound with our capabilities. Loving comes with yearning
and grieving, creating with doubting and thwarting, competing with paining and losing,
knowing with puzzling and misconstruing, politicking with compromising and
despairing—existing with aging and dying. What is the role of transcendence amid this?
The role calls for subtlety and pliancy, for hitting the fitting mean between being daring
and forbearing, challenging and accepting our woes and foes, pushing and respecting the
boundaries of our excellences and expectations. While aiming for new possibilities of life,
we are to avoid hubris, arrogating to a life other than that of human agents—of ineluctable
mortal thoughts, needs, and strivings—whether by seeking invincibility, reducing love and
goodness to what is immune to change, dismissing unpredictable and risky pursuits, or
presuming absolute discernment and virtue. In this epilogue I would like to ponder how
this insight into human transcendence may illuminate both religious and secular views of
flourishing, and what both believers and unbelievers, as well as those vacillating in
between, can appreciate in each others’ commitments to human rights and other high
moral ideals.
All of our examined critics see religion pressing for a view of fulfillment and responsibility that cannot be understood simply in immanent terms: affirmation of enduring goods, all-embracing benevolence, distinct and equal dignity, and holistic flourishing gestures toward a transcendent source and sense of life’s meaning and worth. Charles Taylor expresses pointedly the core of this overarching concern. Acknowledging the transcendent means that “the point of things isn’t exhausted by life, the fullness of life, even the goodness of life.” Human flourishing aims beyond itself in openness to a “change in identity” rooted in “a love or compassion that is unconditional” where “suffering and death” are “not merely negation, the undoing of fullness and life, but also a place to affirm something that matters beyond life, on which life itself originally draws.” Like some of the others, Taylor worries that the “universal solidarity” human rights urge cannot be sustained in a secular culture aloof to the transcendent. Let’s explore how this aiming beyond life centered on boundless love fits into human flourishing and embracing transcendence.

Maxims often appeal by inverting everyday truisms. The religious exhortation to lose your life to find it is an example. We find profound wisdom in the idea that by overextending and negating ourselves in varied pursuits and affiliations we can attain something approximating or even surpassing life’s fullness and goodness. As profound as this wisdom is, it surfaces in most of our everyday experiences and commitments. We

297 Taylor, A Catholic Modernity, 30-36. Taylor’s extensive engagement of secularism can be found in A Secular Age (Cambridge, MA: Harvard University Press, 2007), especially part V.
cannot escape the configuration of human functioning wherein goods are acquired, shared, fragile, and diverse. Acquired means that you have to strive for them, shared that you have to give and receive to gain something, fragile that you may lose or not attain them, diverse that you may not reconcile them and surrender some for the sake of others. Most of our activities and relationships aim beyond merely preserving and gratifying the self and are transformational, other-regarding, and self-donative. We commit to all kinds of goals and values that require remolding, reciprocating, and relinquishing—as siblings, parents, friends, partners, colleagues, citizens. A painter works hard and gives up a lot for his art, an entrepreneur for his enterprise, a coach for his team, a scholar for his insight, a politician for his vision, a soldier for his country. Pursuing personal recognition, mastery, welfare, and power is laced with selfless concerns, and where the distinction between personal and selfless—or the stress on the one or the other—falls in these pursuits is often murky. What is clear is that both delinking and fusing the two is a mistake. Reducing our practices to either self-interest or self-sacrifice fails to do justice to our motivations. Flourishing is more about figuring out which goals and values are really worth becoming interested in and sacrificing for, and further examining within which circles of aspiration and responsibility to enact them—within a family, a friendship, a vocation, an ideology, a religion, a nation, an alliance, humanity, the natural world? And if by reflecting on what is most fitting and fulfilling, you recognize that setting sharp boundaries between these circles is somewhat arbitrary and truncating for your virtue and thriving, you also then consider how to link these boundaries and harmonize these circles—while both preserving and expanding your personal and communal identity. However you settle these musings, you discern that all of us seek more than life. We seek a good life, and the good inevitably prods us to reshaping,
sharing, and sometimes shattering our self. Aiming beyond life is not that distinctive and worthwhile in itself. What one aims for and with whom matters more.

Recognizing unmerited and unreciprocated benevolence to be vital to our flourishing is also more ordinary than we may think. We all give and receive more than is deserving and self-serving, even when leaving a tip at a disappointing restaurant we will never visit again, shaking dirt off our shoe soles before entering rundown public transit, or reflexively holding a door with averted eyes for a stranger. The purposes and persons animating our benevolent regard are more vital. In what sense can this benevolence be valued as unconditional, limitless, and primary? Once you apprehend the reach of kindness and mercy in your daily experiences, you aspire to extend them, as keeping them on a leash belies their openhanded character. Yet you cannot disregard conditions, limits, or ancillaries in unleashing them, either. Exigent virtue has to consider contingencies. Flourishing consists of variegated practices and relationships with attendant goods. It has a beneficiary and a participatory dimension, and many benefits are either inaccessible or inappropriate, as well as baneful, without fitting participation. In seeking someone’s thriving, I have to attend that they thrive fittingly. What is fitting? It depends on context, but in general terms, reflective integrity for practice and fair and compassionate regard for relationship. I am not helping someone enjoy and perform the goods of playing, learning,

299 My thoughts here are directed toward Perry’s and Taylor’s noted emphasis on the centrality of self-donative love in religious life, a love that, they fear, lacks cognitive and emotive validation in secular humanism. Yet I also have in mind other religious ethicists focusing on the primacy of agape, especially Timothy Johnson’s Love Disconsoled; Meditations on Christian Charity (Cambridge, UK: Cambridge University Press, 1999) and The Priority of Love: Christian Charity and Social Justice (Princeton, NJ: Princeton University Press, 2002) and Colin Grant, Altruism and Christian Ethics (Cambridge, UK: Cambridge University Press, 2000).
work, or friendship if I ignore their carelessness or callousness. Even when providing for someone’s basic needs, like food and shelter, I may have to consider the individual’s dispositions and aspirations so I meet these needs in a way that will help him restore or sustain faith in himself and others. “Love builds up” by assuming dormant potential in someone, but it can also tear down if it assumes too much or too soon or too unreservedly.

We also cannot be “all things to all people.” We are bound by specific places, persons, and practices. Our excellence and beneficence cannot arrogate to universality. We can excel and benefit others in very limited settings and ways. It is only fitting that we lean to do so in pursuits and affiliations whose goods we know and can engage best, that are more aligned with our histories, accountable to and plausibly envisaged, and with our capabilities, proficiently achieved and practically achievable. We cannot nurture and share thick virtues by spreading ourselves thin in seeking the greatest happiness of the greatest number of people or universalizing our obligations to every person everywhere. Thick virtues require thick responsibilities. Sometimes such responsibilities come in distant and unfamiliar settings, but they can also extend far by staying close to home. We can assist and inspire strangers to a good by cultivating it within a tightly knit community. Artists, athletes, academics do this all the time. So can families, neighbors, workmates, parishioners, townspeople. Often such intimate cultivation is what allows for reaching out fruitfully and vigorously to others, avoiding depletion and despair. What sustains a good therapist sustains us most. We can serve others well only if we attend to our own health.

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300 William Galston dissects the complexities and ambiguities of altruistic action across national boundaries, showing both its gains and losses for moral life, in “Value Pluralism and Motivational Complexity: The Case of Cosmopolitan Altruism,” *The Practice of Liberal Pluralism*, 95-114.
and growth in therapeutic relationships and pursuits. That is why attention to personal
excellence and welfare is also so important. Whatever goods we wish to nurture with
others we have to make sure to sustain within ourselves. Sometimes we can even advance
the goods of a flourishing life through heedless self-absorption, which in the extreme might
oscillate between self-aggrandizement and self-destruction. Again, artists, athletes, or
academics can serve as useful examples, for both cautionary and inspirational tales.
Flourishing may demand that we venture into forms of excellence, insight, or virtue apart
from others, that we explore what others see as unattainable, worthless, or dangerous. If
we succeed approximating anything worthwhile, others can either join in or appreciate it

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301 For a provocative view on the limits of moral sainthood, a life of perfect virtue, in
relation to other human concerns, see Susan Wolf, “Moral Saints,” The Virtues:
Contemporary Essays on Moral Character, eds. Robert B. Kruschwitz and Robert C. Roberts
(Belmont, CA: Wadsworth, 1987), 137-152. Wolf also has a thought-provoking essay on
how seeking “meaning” differs from seeking both “happiness” and “morality.” Meaning in
Life and Why It Matters (Princeton, NJ: Princeton University Press, 2010), 1-63, and 102-
132. Her earlier statement on the subject is available in “Meaning and Morality,”
observations on how impartial morality contrasts and vies with concerns for meaning and
fulfillment, yet she may underappreciate how the meaningfulness of personally significant
pursuits and relationships is laden with impartial considerations as we seek to synthesize
and balance their competing goods and demands, to give everything and everyone their
due. Every partial commitment carries some impartial claim when viewed in relation to
other partial commitments in one’s life. She may also underappreciate the extent to which
people find personal meaning in seeking common good—via volunteering, humanitarian
work, civic engagement—or how many see overarching meaning in principilism, in ordering
their lives around impartial principles—to act from duty, fairness, integrity, virtue. In
general, while impartial morality is distinct from, it can also integrate with a search for
meaning—together with awareness of tension, ambiguity, conflict, and tragedy. The
striving to harmonize one’s varied goods in a meaningful and responsible whole alongside
others’ varied goods can be central to a meaningful life—a life with a sense of worth, value,
fulfillment, authenticity, wholeness, etc. In fact, such striving can be conceived as
“objectively valuable,” a requirement which Wolf conceives to be crucial to “meaning.”
from a distance, sometimes in our lifetime, occasionally generations later—and now and then never.

Virtue has many faces and angles to behold them, be it not reducible to the eyes of the beholder. To say that any one has supreme form and unconditional gaze is to view human life in a false mirror. In a contingent world of finite, relational beings, no norm or good can trump all others or convey the essence of the whole. As soon as you start applying an ideal to various circumstances, it changes names and contents. Love is no exception. We speak of tough love, platonic love, puppy love, jaded love, self-love, selfless love, loveless love. Agape does convey something central to our experience, but it too has many parameters and, if unexamined and unqualified, pitfalls. All kinds of atrocities and inhumane ideologies are enacted for the sake of universal and brotherly love. Willingness to lay down one’s life for ideals and measure up to the same standards one demands of others is no sure safeguard against these perils. We should heed sacrificial agape, but not deify it by ignoring its aims, limits, and blind spots. And in espousing its value in noble causes, we should affirm both the sacrifice and the sacrificed, lest it leads to pathologies and cults of suffering or violence. A person too willing to part with life goods might be despairing rather than hopeful of finding meaning and worth in life; and depending on context, we might seek to dissuade him from renunciation until he recovers some verve.

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and yearning. An aging father losing sons to war might be discouraged from entering it himself right away to make sure grief does not hold his judgment captive. Circumstances differ, but in overall spirit, though not always by emotional disposition, a self committed to moral flourishing is more like “a knight of faith” than “a knight of infinite resignation.” In linking her life with others in benevolent thriving, she does not resign from synthesizing virtue and happiness; she believes in finding and fulfilling herself in self-expending, if incompletely and sometimes tragically.

We should also be guarded against thinking that supreme virtue only manifests in the cross, Gulag or Auschwitz. Such occasions of holiness should always be mourned as tragedies to honor their true worth; as long as we remain mortals, they are never only epics to be celebrated and adored for imitation. Camus eulogized the purity of motive in Decembrists’ readiness to die for their revolutionary cause against the czar in the play Just Assassins. In Dirty Hands, Sartre suggested that tedious, messy, piecemeal politicking, full of pragmatic compromise and revision, can too be part of responsible inner and outer life, and to judge it inferior may be inapt. In a world of change and chance replete with fragile, incommensurable goods, purity of heart may often be opaque and out of reach. Greek tragedies illustrate this with excruciating nuance—conflicting commitments, unruly circumstances, partial and fickle loyalties, hubristic hopes, and misty motives make for many-sided, ambiguity-laden, fragile goodness. This also accentuates that a flourishing

304 For a classic statement on the contrast between the ethic of conviction and the ethic of responsibility, see Max Weber’s Politics as a Vocation (Minneapolis, MN: Fortress Press, 1965).
305 Nussbaum’s Fragility of Goodness is a particularly insightful treatment of this topic.
life is most often far from an easy one, a gratifying one, or even a successful one. The fitting, worthy, and fulfilling cannot be reduced to calm, content, validation, or vindication. Claus von Stauffenberg’s effort to assassinate Hitler failed and cost his and many others’ life, exacting on him much doubt and despondency along the way and in the end, but we could still honor and aspire to this effort even if fascism still reigned in Europe.306

These observations on flourishing underscore that the good and the virtuous are bound to the distinctive mode of life of a specific agent in a particular environment. Humans have their goods and virtues, dolphins and chimps theirs. We may also consider that prehistoric humans had their own special virtues given their distinctive capabilities and environments, and distantly future humans will, too, if their achievements or failures alter their agency and world. Speculations are limitless. Flourishing is not. Absolute or universal goodness we cannot know of. When we ponder cosmic paragons, we often conceive human perfections in an ideal human world. The virtues of Buddha, Allah, Christ, Vishnu or YHWH reflect ultimate human virtues. If, however, we contemplate alternative worlds and life forms, their desired perfections may differ from ours. For example, we may imagine a realm with relatively autonomous and equally gifted beings whose capacities and practices demand more independent and meritorious thriving, where seeking aid signals undue temerity or languor and extending it undermining the other. Even the übermensch can be conceived as a possible ideal—as bizarre as that world would be: single-minded spirits striving to outstrip compeers in ever-changing contests—failing, recuperating, relearning, improving to face new battles, over and over again. These ideals of flourishing

306 Robert M. Adams offers thoughtful reflection on von Stauffenberg’s turmoil in his “Comment” on Susan Wolf’s Meaning in Life, 75-84.
are misguided for us—apart from specific domains and contexts like *Spelling Bee, American Idol, WWF* or LSAT—because that is not who we are and what our world is like. We are vulnerable, interdependent agents, unequal to each other in our needs and gifts in varied ways, many beyond our choice and deserving, who can best—most fittingly and worthily—engage what we are capable of not only through merit and rivalry but also mercy and benevolence, while attending to not only what matches and facilitates the good but also what falls short of and withdraws from it.

This overall line of thought may lead us to acknowledge that, while we may discern the outlines of our flourishing, we may not fathom the configurations of the cosmos or even our world. These are certainly distinct inquiries, and judgments of either one may not subvert the other. We may affirm what is fitting and fulfilling for us in the here and now while puzzling over how everything evolves and will conclude. We may imagine a world where a particular flourishing life is the most worthwhile aspiration and the original design and the final destiny are something else, or even where everything begins and ends with nothingness. An aspiration may be the most meaningful and choiceworthy whether it eventually crashes or tapers off—or ushers in something new. What matters more is that it most fits and fulfills a specific being in a given world. We may even affirm that

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308 Some believers are taken with Blaise Pascal’s Wager argument: whatever the empirical evidence for God’s existence may be, theism is to be preferred because of the grave consequences of unbelief—eternal damnation. Louise Antony offers a provoking half-facetious, half-serious rebuttal to this wager: atheistic moral piety is to be preferred because it is more likely to foster the kind of virtue that best conforms to that of God, namely, virtue for its own sake rather than for the sake of extrinsic desert. See her
meaningfulness and choiceworthiness while debating whether our world is hospitable to or merely compatible with this aspiration. That the aspiration endures in its fittingness and fulfillingness—that it best explains and honors our remembered past, best assesses and guides our urgent present, and best inspires our envisaged future—sustains conviction.

We may also hope that this reflection on flourishing leads both believers and unbelievers to recognize common commitments and hopes, as well as doubts and flaws. We may affirm many shared goods and virtues, alongside their conflicts, discontents, and failures, despite our varied views of the ultimate. We may even share notions of flourishing transcendence—what benevolence and excellence may demand of us beyond the edges of the meaningful, past our bond with self, the treasured other(s), and life itself—while debating transcending realities. We should certainly affirm that our devotion to each other, to mutual concern and understanding, should not wane or recede from view in these debates.

Believers should appreciate that many unbelievers do not renounce religion to flee responsibility. Genuine doubts may haunt skeptics and agnostics, doubts seeking justice in life. Teleologies may seem riddled with paradox. That human valorization of objective truth and justice coheres with evolutionary fittingness or that this valorization persists despite

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310 See Hilary Putnam’s keen analysis of how moral evaluation may be objective and normative in a world whose fundamental order may be inaccessible to knowledge in *Ethics Without Ontology* (Cambridge, MA: Harvard University Press, 2004), 15-32 and 71-85.
incoherence, both are taken to be signs of intentional telos. What would definitively debunk the deliberate design of this valorization once it is seen as enduring in evolution is ambiguous. It may almost seem that atheists need to advocate giving up reason and morals to prove their theses to theists. More seriously, evolutionary twists and turns may appear too random and cruel to betoken providential benevolence. How theodicies and eschatologies can account for this may also seem hazy. Appeal to freedom of the will offends. Too many suffer indiscriminately without merit or a chance to attain it. Besides,


312 In general, someone trained in humanities finds much insight of modern evolutionary theory into human behavior as much illuminating as obfuscating, especially its conception of fittingness. If fitting is defined as that which is conducive to preservation and extension of the species in a struggle against other organisms, then, of course, many behaviors aiming at morals and excellences may seem unfitting—superfluous and self-destructive. If, however, human beings, as well as other animals, are conceived to seek more than mere survival and outlasting competition, as functioning in accordance with evolved capabilities—fellowship, play, art, science, ethics—then the fitting can be a lot more expansive and explanatory, even as such capabilities may compete with and compromise individual and collective welfare. An excellent edited volume representing a variety of insightful perspectives on evolution and morality is Evolution, Games, and God: The Principle of Cooperation, eds. Martin A. Novak and Sarah Coakley (Cambridge, MA: Cambridge University Press, 2013).

313 William James has an arresting image for the orderliness of cosmic evolution: “Here all depends upon the point of view. To the grub under the bark the exquisite fitness of the woodpecker’s organism to extract him would certainly argue a diabolical designer.” Pragmatism (Indianapolis: Hackett, 1981), 52.

enough of who we are is either a curse or grace from beyond ourselves—selves shaped by genes, generation, gender, nurture, culture, health, wealth, looks, smarts, accidents, coincidences, unplanned and unmerited opportunities and relationships—to assume self-congratulatory pride in our accomplishments and callous condemnation of others’ failings. Affirmation of cosmic omnipotence required to assure confidence in the reconciled future saps trust in cosmic blessing of the discordant present and past. With omnipotence denied fades away assurance of the kingdom coming or nirvana attained. Ultimate yearnings are even difficult to divine. The highest virtue vouched for here cannot extend into the desired beyond. Agape that is not fully vulnerable to the agony of dispossession, defeat, and death, that is assured of meeting itself in reciprocation, is not the prized human agape. Mystery envelops what could account for injustice and suffering while meeting hopes for excellence and thriving.

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315 Annette Baier draws related insight while pondering Kant’s supreme moral motive to act from duty without expectation of others’ reciprocation. What happens to this motive in the realized Kingdom of Ends where one is assured of reciprocation, given that everyone else acts from duty? She concludes: “Kant’s paradox is real, and so, once again, the ideal of a just society threatens to become incoherent. The threat, this time, is not one which can be allayed by sociological and historical findings, but is more fundamental—a necessary conflict between the criteria for qualification as the just society comprised of qualified members, and the criteria for its actualization. Must the just man then conclude ‘credo quia absurdum est?’ He might—as he might develop a relish for acting for necessarily lost causes—but he can keep his faith from being the absurd hope for the impossible, by acceptance of the fact that one can live without certainty. As the just man now, in an unjust world, has no certainty, only faith and hope, that there really can and will be a just society of the living, so, in any apparently attained just society, that is in one with just institutions, its members will rely on the faith and hope that they could if necessary act for a mere idea, and so that they really qualify for membership.” “Secular Faith,” Canadian Journal of Philosophy 10, No. 1 (March, 1980), 148.
Unbelievers should in turn appreciate that many believers do not flee to religion to seek false comfort or dull urgency of commitment to the here and now. The reverse regularly rings true. Religious insight may upend comforts and heighten urgencies in the present. For good and for ill. It can also be clear-eyed and hard-nosed. Meeting God or attaining spiritual enlightenment often leads to facing wishful thinking and useful delusions, engaging your own fanaticisms and idolatries to fess up to denying the obvious and avoiding the obligatory. Religious and secular sentiments can share much in common. Perception of ultimate reality is often akin to the everyday sense of ‘consciousness’ and ‘conscience,’ of something animating and compelling your daily being even as you struggle understanding what it is and how it unfolds; many theories vie for explaining this sense as something else, many experiences confuse and contradict it, and yet it is still there, inexplicable, distinct, and certain. A religious trust that benevolence

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316 This is what Nussbaum, for example, finds problematic in Augustinian Christianity and other religious traditions. See her Upheavals of Thought, 547-556 and Love’s Knowledge, 370. Rosemary Luling Haughton gives a good response to these reservations: “That is why I find being a modern Catholic bewildering. Modern Catholics (and many other Christians, Jews, and people of other faiths) have tried to capture an integral and nondualistic vision of religion that embraces joy and, indeed, fun but that also accepts with enthusiasm necessary discomfort, pain, or worse if that is necessary for the sake of justice—which turns out to mean a way of life formed by an awareness of created interdependence. But we don’t have the language, and we are stuck with trying to explain what it is we long for more than we have without using words like beyond or transcendent. We want that life-affirming prophetic joy, but we also want the stiffening of heroism because the achievement of justice, God’s reign—the-way-things-are-meant-to-be—often requires heroism as an ongoing way of life.” Haughton, “Transcendence and the Bewilderment of Being Modern,” in A Catholic Modernity? 76.

is written on the heart and ingrained in the universe can be like that.\textsuperscript{318} A secular trust, too.\textsuperscript{319}

Everyone may also appreciate that we all live by faith, by “assurance of things hoped for, the conviction of things not seen.” Devotion to any enduring good demands that. Faith that you will find resources to pursue this good; that someone can follow suit; that you can sort out differences and disagreements; that you can persevere through adversities, fate- and self-inflicted; that you can find the good fitting and fulfilling, with others shouldering you, dragging behind, veering off, leaping ahead, and contending against.\textsuperscript{320}

Both believers and unbelievers often worry that the others do not follow appropriate orthodoxies to uphold robust commitments, to rights, dignity, solidarity. Believers worry that unbelievers worship humanity and flourishing too much and that they may give up on common good or give in to imposing it when humanity and flourishing either disappoint or demand too much. Unbelievers worry that believers worship their own virtue and transcendence too much and that they may yield to the same choices when others do not live up to that virtue and transcendence. Both may recognize that no belief system insures

\textsuperscript{318} For an example of this kind of religious affirmation, see Janet Martin Soskice, “Reason and Love,” Philosophers and God; At the Frontiers of Faith and Reason, eds. John Cornwell and Michael McGhee (New York: Continuum, 2009), 77-85.


against these and other stumbling blocks. Both the image of man and the image of God can
trip as well as blind and blight. Just in the last century, plenty of unbelievers sought
destructive visions of the Kingdom of God on earth and plenty of believers adjusted their
doctrines to support or acquiesce to their cause. Everyone may be wise to inspect their
convictions more warily and humbly and make charitable use of others’ insight to avoid
building houses on sand or ivory towers. The “spirit of brotherhood” in the human rights
declaration urges us all to share both each others’ goods and achievements and each others’
struggles and failings. They are not all identical and equivalent, but we can recognize and
address this only if we see and treat each other as we are “endowed”—“with reason and
conscience.”

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321 For example, see Robert P. Ericksen, *Complicity in the Holocaust: Churches and
Universities in Nazi Germany*, New York: Cambridge University Press, 2012; Kevin P.
Spicer, *Hitler's Priests: Catholic Clergy and National Socialism* (DeKalb, IL: Northern Illinois
University Press, 2008); Steven Merritt Miner, *Stalin's Holy War: Religion, Nationalism, and

322 The Universal Declaration of Human Rights, 1948, Article 1: “All human beings are born
free and equal in dignity and rights. They are endowed with reason and conscience and
should act towards one another in a spirit of brotherhood.”
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