

# Marta Nussbaum's Theory of Social Justice

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# Martha Nussbaum's theory of social justice

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# Abstract

Martha Nussbaum's theory of social justice brings out questions that have been arising in philosophy since ancient Greece. What is a good human life? How should the government treat its citizens and according to which norms? Can we provide a normative approach that will include all human beings, without excluding the powerless? In the thesis, I aim to examine these questions from the perspective of Nussbaum's capability approach and her Aristotelian essentialism, whereas it will be argued that her theory of social justice succeeds in its primary purpose: to offer well-grounded, intuitive and universal guidelines for public policy. Furthermore, I will be defending a form of essentialism, arguing that it serves as necessary grounds when establishing a theory of the human good, for it gives a clear account of well-being that public policy should be focused on in order to promote social justice.

Keywords: Martha Nussbaum, social justice, capability approach, essentialism, public policy

# Introduction

Martha Nussbaum developed a philosophical theory of social justice and distribution, grounded in the Aristotelian essentialism and the capability approach. In ethical and political philosophy different theories approach the matters of justice in different ways. Should there be social institutions that promote justice according to an account of the human good, equally distributed material possessions or perhaps people's subjective preferences? According to Nussbaum, the immediate question that arises and should be answered when we deal with matters of social justice is: what makes for *a good human life*? However, many theories in the social justice debate would reject the approach which puts the primary focus on the account of the human good, objecting that the opinions vary when it comes to what a good human life is.

When measuring the quality of human life in order to decide whether certain reforms should be made, there are three dominant theories used as models for public policy: GDP (Gross Domestic Product) per capita, Rawlsian liberalism and utilitarianism. GDP assesses the quality of life in societies according to the income each person receives. Rawlsian liberalism is grounded in a social contract theory which holds that the basis for a just society lies in the agreement of its members who have reasons to support a certain social contract that they benefit from. Based on this idea, John Rawls developed a liberal theory that is primarily focused on the just redistribution of the resources between members of society. On the other hand, utilitarianism puts the priority on people's subjective testimonies about their life quality by taking polls.

Nussbaum raises objections to theories of social justice ungrounded in the conception of the human good. In her view, evaluating aspects of a good human life serves as a central starting point when assessing the quality of life that public policy should aim to increase. This is clearly an *essentialist* approach because it brings forth specific defining features of a human being. Nussbaum believes that, although certain essentialism-grounded practices resulted in the oppression of the powerless, it should not be completely dismissed, but rather reconstructed so that the justified objections are avoided. She also places the focus of ethical-political philosophical theories on *human capabilities*, on what we can do and be, instead of on other aspects being prioritised in the social justice debate. The capability approach offers a theoretical frame for detecting the needs that humans have, and therefore makes the establishment of public policy that takes care of these needs possible. On the other hand, alternative theories that

measure the quality of life according to income, resources or utility fail to recognize the need for a broader comprehension of a good human life that Nussbaum emphasizes. Focusing solely on how high people's income is, how many resources people have or taking into account people's subjective opinions about their own well-being is not enough. It does not cover all the important features of human lives public policy should aim to consider. As Nussbaum shows, people may have a high income or enough material goods, but the possessions are merely instrumental and serve as the means for the achievement of a good life. In addition, people may express satisfaction with their own life, but due to adaptive preferences, continue to cope with unjust treatment without realising the poor quality of life they actually have.

The aim of this paper is to give an overview of Nussbaum's theory of social justice while focusing solely on the early stage of her philosophical work.<sup>1</sup> The idea is that, when providing a theory of social justice, it should be taken into account what it is that makes life really human, and what kind of life cannot be considered human, let alone a good one. First, I will explain in more detail Nussbaum's motivation for the capability approach, due to the shortcomings the alternative theories have. Second, I will evaluate different forms of essentialism, trying to justify Nussbaum's reasons for supporting internalist essentialism. Third, after clarifying the motivation for developing an alternative theory of social justice grounded in essentialism, I will explain Nussbaum's thick vague theory of the good and the difference between two thresholds. In order to support her essentialist approach, Nussbaum offers a list of central human capabilities to function, which serves as a guideline for public policy, while at the same time she leaves room for the plurality of values when personal preference is in question. Finally, I aim to defend essentialism by offering replies to the most common anti-essentialist objections. It will be shown that supporting essentialism does not necessarily result in vulnerability to objections of paternalism and negligence of social diversity.

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<sup>1</sup> The difference between the early and the later Nussbaum is in the method she uses to justify her arguments, whereas in the early phase she relies on the so-called 'self-validating' strategy of argumentation, and in the more recent phase on the overlapping consensus, adopted from Rawlsian liberalism (Claassen and Düwell 2013, 498).

# Motivation for the capability approach

According to Nussbaum, there is a need for an alternative ethical-political proposal which could offer a solution for the shortcomings of the three prevailing theories in the contemporary philosophical debate: GDP per capita, Rawlsian liberalism and utilitarianism.<sup>2</sup> With the idea that “the goal of philosophical theorizing in politics is not simply theory, but also, and more urgently, practice”, she aims to provide such a theory that would, if taken into account, ensure universal social justice for people across all times and places (Nussbaum 1990, 208). The theory, therefore, must be sensitive to cultural differences and personal autonomy, while at the same time detecting what all human beings share that is worth including in a theory of justice. In order to examine Nussbaum’s take on utilitarianism and Rawlsian liberalism, I will describe two examples that can provide insights into the discussion.

The first example concerns a worker who is sacrificing all the other potentials he could have been developing and all the satisfaction of the needs he has because the society he lives in is preoccupied with economic prosperity at the expense of its lower-class members. It does not appear to us that he lives a fulfilled or a good life:

Let us imagine, first, the worker whom Marx described in his *Economic and Philosophical Manuscripts of 1844*. This worker performs a monotonous task in a large industrial enterprise over which he himself has no control, He is not prosperous; in fact, he is needy. But material need is only one part of his problem. The other part is that, being removed from choice and control over his work activity, he has been alienated from the fully human use of the food he has, and of his senses more generally. “In his human functions,” Marx writes, “he no longer feels himself to be anything but an animal.” (Nussbaum 1990, 214).

It is evident that this is not the kind of life that we wish to promote in a just society. However, the question still remains how should we correct the injustice being done, and based on which norms? This question can be answered in three different ways.

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<sup>2</sup> Nussbaum does not focus to a great extent on GDP per capita model, for it is clearly problematic in terms of measurement of life quality. What is being evaluated is only economic factors, whereas the other important ones, such as education and health, are not affected or included when the assessments are made. It has been shown that increased GDP does not increase the life quality in terms of health and education (Nussbaum 2011, 47).

Utilitarianism, when measuring the quality of life, will follow the idea that utility-maximizing is what increases the well-being of individuals. The utilitarian relies on people's testimonies, which can be gathered by polling while focusing on subjective desires and assessment of their own quality of life (Nussbaum 1992, 230). Therefore, in the case of Marx's worker, a utilitarian would ask the worker about his subjective opinion with regard to the life he is living. He might reply that he is miserable and rate the quality of his life as quite poor, given the lack of freedom to choose to live otherwise. However, the problem with this type of approach occurs with the next possible answer. The worker might also reply that he is doing well and that he has accomplished more or less everything he strived to do. But if we take into consideration that each day he works overtime, that he is physically and mentally exhausted to function after he finishes his shift, that because of it, he cannot form proper human connections with others and that his health is suffering due to poor working conditions, him stating that his life is a good one seems peculiar. People tend to form *adaptive preferences*<sup>3</sup> when they are dealing with a lack of choice, hence they bend their judgement in a way that decreases expectation and increases satisfaction with the current situation (Nussbaum 2011, 54). Although utilitarianism seems to have some advantages, for it approaches well-being on an individual level, it nevertheless fails to give a normative framework according to which this phenomenon could be avoided.

The Rawlsian liberal theory of justice, on the other hand, will provide a normative approach based on which there should be (1) an index of primary goods, i.e. of wealth and income, which can detect those who are 'worst off', and (2) inequalities insofar as they 'improve the condition of the worst off' (Nussbaum 1990, 210). Consequently, and in contrast to utilitarianism, regardless of the worker's claims, the government should aim to redistribute resources, if it has been shown that he is deprived of material goods (Nussbaum 1990, 214). However, Nussbaum emphasizes that the liberal focuses exclusively on the resources that have an impact on people's material situation but takes no notice of possible 'impediments to good functioning in the structure of the worker's daily modes of interaction with others, asking whether his life is such that he is capable of using the resources he is given in a truly human way' (1992, 215). In other words, solely regarding the material status of individuals, but not the diversity of capabilities that condition each life in a different way or other important features

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<sup>3</sup> The phenomenon of adaptive preferences is described in J. Elster's book *Sour Grapes* (Nussbaum 2011, 54). It examines (ir)rationality when we are faced with something we cannot have. The example is inspired by Aesop's fable in which a fox desires grapes, but being unable to reach them, convinces itself that the grapes are undesirable because they are sour.



of humanness, is a too narrow approach to social justice. A supporter of the capability approach, Amartya Sen, uses the so-called “conversion factors” in order to emphasize the importance of the capability approach in comparison to the theories focused solely on resources (Robeyns and Byskov, 2021). He provides an example of a bicycle, serving as a resource we can give to people offering them the freedom of mobility. The purpose of this resource is to be transformed into a functioning. However, some people will not be able to do so if they have a physical impairment or they have never learned how to ride a bicycle. Furthermore, women who live in a culture that does not allow females to move freely by themselves, or people who live in a place without the necessary infrastructure, such as roads, will also not be able to ride a bicycle. Their conversion factor will be low. Sen’s example shows that even if we have resources, it is not enough only to possess them: we must be able to transform a resource into a functioning, otherwise, the resources are pointless.

The Aristotelian, whom Nussbaum supports, in the case of Marx’s worker, asks the next questions in order to treat him justly:

What is this worker able to do and to be? What are his choices? What are his modes of interaction with his work and with other human beings? What is he able to imagine and to enjoy? How is he eating and using his senses? And how do the institutional and work-related conditions of his life promote or impede these functionings? (Nussbaum 1990, 215)

According to Nussbaum (1990, 210-211), there are two reasons, deriving from Aristotle’s political theory, that these questions need to be answered. First, the Aristotelian distinguishes between the instrumental good, something that is good because it leads to the desired result, and the intrinsic good, something that is good in itself. As a result, this distinction allows for placing possessions and income under the class of instrumental goods, for they only serve as means for a good life. They are “a useful heap, but a heap nonetheless, a heap that is nothing at all unless it is put to use in the doings and beings of human lives” (Nussbaum 1990, 210). Second, there is a variety of human capabilities to function and the instrumental goods should be adjusted to these contextual differences accordingly:

In Aristotle’s famous example, the right amount of food for Milo the wrestler, given his activity level, size, and occupation, is an amount that would be too much for most people. On the other hand, Milo would be very badly off, from the point of view of functioning, if he had an amount of food that is just right for a small

sedentary philosopher. Again, as Aristotle prominently recognizes, the needs of pregnant women for food and other goods associated with health are very different from the needs of a nonpregnant woman. We might add that the protein needs of a child are altogether different from those of an adult. Again, a person with mobility problems, or a missing limb, will require a much larger subvention in order to be minimally mobile than will a person with no such deficiency. (Nussbaum 1990, 211)

If a person possesses an equal amount of goods as the ones whose needs are in balance with their possessions, but the needs of that person are much greater, we do not have a just distribution of resources. These instances illuminate the need for an alternative theoretical framework which would in an adequate way acknowledge and take into account all the aspects of the example above. Neither Rawlsian liberal theory nor utilitarian one can offer such a framework because they do not regard real human needs as crucial factors when talking about justice.

The second example concerns the illiteracy of the women in rural Bangladesh (Nussbaum 1990, 215).<sup>4</sup> When the polls were taken in order for women to express their standpoint on the matters of receiving a better education, they showed overall satisfaction with the current state of affairs. Thus, the government had no reason to change the status quo. However, the fact is that the women were not as well-nourished as men were, educated nor valued in the same way. Nussbaum argues that, with the utilitarian approach, the injustice cannot be undone because the cultural pressure and the ignorance of the benefits of education deform the desire (Nussbaum 1990, 215). While lacking choice or knowledge of what an alternative choice would even mean for them, the women cope with the oppression by creating adaptive preferences. A child, for example, does not go to school because it is aware of all the good it brings to human life, such awareness comes later. Also, if a woman is being exposed to domestic abuse and she still claims that it is a form of love and caring, she will not be aware of what loving a person really means until she becomes free of adaptive preferences. In societies with high gender discrimination, there is a typical division between the domestic and public sphere of life. The domestic one is a female responsibility, and the public one is male. Men get educated, women remain illiterate, and therefore unable to get employment, develop careers and become self-sufficient. In a society where a woman is not perceived as equal, female independence is something that is

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<sup>4</sup> The example is based on Marty Chen's study *A Quiet Revolution*.

being judged, rather than praised. In addition, the Rawlsian liberal theory also has limitations when approaching this problem, because it does not seek a deeper inquiry than the material situation of individuals. But this alone does not reveal other important aspects of a good human life which we need to specify in order to promote social justice through public policy. Rawls believes that matters of well-being do not fall under the social justice debate and should be left out of it. However, as it has been shown, Rawlsian liberalism fails to approach and detect injustice while excluding the question of well-being from the inquiry. If the question is not asked and the specific context has not been recognised, the answer to the problem cannot follow because the problem appears as non-existent. This is why Nussbaum emphasizes the crucial importance of including the discussion of well-being and the human good in the debate about social justice. The shortcomings of utilitarianism and liberalism imply that the theory of social justice might benefit from a different perspective, which is what makes essentialism worth revising.

## Essentialism: its limits and advantages

Nussbaum defines essentialism as "the view that human life has certain central defining features" (1992, 205). In other words, there must be something that enables us to distinguish between a life that is human and a life that is not human, according to the specific features it possesses. The *essential* properties should be differentiated from *accidental* ones, the latter being those that a human being may possess, but does not have to, in order to be classified as a human. For example, experiencing pleasure while listening to classical music and the knowledge of the French language would be accidental properties. But would we say that the capacity to experience pleasure and the capacity for intellectual growth, i.e. learning, are the properties that life can lack and still be understood as human? There is no absolute consensus on the matters of essentialism and many philosophers reject it because it is often thought that it is either too inclusive or too exclusive, which creates serious challenges for the theory. However, there is some light to be shed on the different understanding of essentialism and in order to do that, I shall follow Thomas Hurka's division of different types of approaches to human nature in the context of perfectionism<sup>5</sup>.

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<sup>5</sup> Perfectionism is a moral theory which presupposes that a good life is achieved through practicing and developing specific human nature.

The first approach Hurka introduces is the one that brings down human nature to the properties ‘*distinctive of humans, or possessed only by humans*’ (1993, 9).<sup>6</sup> From this it follows that human nature consists only of features that are not shared with any other organism, meaning that features such as the capacity for experiencing pleasure and pain are not worth taking into account since they are also present in other beings as well. But this seems odd, for it implies a certain kind of causal relation between every other being and human beings in terms of the mutual dependence on their properties. As Hurka (1993, 11) points out, the triviality of possession of different properties in comparison to other species is evident from the fact that if one species would develop a high degree of rationality, it would have to mean that the rationality, no longer distinctive of humans, can no longer be considered as worth developing. Another, morally more significant objection, is that arson, destruction of the environment and killing for fun are features possessed only by humans but are intuitively not considered to be morally valuable ones (Hurka 1993, 11). Nevertheless, according to the *distinctiveness* approach, if they are properties characteristic exclusively of humans, they should be practised in order to achieve a good life, worth living. These two objections cannot be disregarded, for it cannot be the case that comparing the human species with others contributes to defining human nature in the context of morally valuable properties – it is completely irrelevant. However, human nature defined by essential properties that are necessary for each member of the human species to possess avoids these objections, since it is focused entirely on human nature, regardless of other species’ features (Hurka 1993, 11).

Therefore, the *essence* approach is the second one that Hurka analyses, but as it shall be shown, this one also falls short of providing a satisfactory definition. If we would examine all the properties that necessarily belong to a human being, we would also have to include trivial properties, such as the ability to occupy space (Hurka 1993, 12). The main problem is that these kinds of properties are not intrinsically worth developing, otherwise, we would have to argue that it is for some reason better to occupy more space, rather than less (Hurka 1993, 12). Because this evidently weakens the *essence* view, it should be modified in a way that these objections can be avoided.

The third approach combines the previous two views, identifying human nature with features *essential to and distinctive of* human beings (Hurka 1993, 13). Although this view successfully deals with the objection of wrong properties, it is subjected to the same challenge

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<sup>6</sup> The *distinctiveness* approach can be found in the philosophical works of Plato, Aristotle, Kant and Marx (Hurka 1993, 10).

that the *distinctiveness* view cannot deal with, i.e. properties of human beings that are in a way dependent on the lack of the same properties in other species (Hurka 1993, 13). This is why Hurka introduces a redefined version of the *essence* approach, that is not too inclusive, and he names it *essence and life*.

Hurka argues for the *essence and life* view that equates human nature with the properties that “are essential to humans and conditioned on their being living things” because he believes it can confront objections more effectively than the other approaches are able to (Hurka 1993, 16). If we consider which features a human can never lack in order to remain human and at the same time the frame of reference is one of the animate things, we should conclude what a specific human nature is. Thus, based on the respective approach, Hurka defends “an Aristotelian theory of human nature”, emphasizing the value of theoretical and practical rationality, as well as bodily properties, that are worth developing in order to achieve an intrinsically good life (Hurka 1993, 37).

As it has been shown to this point, there are attacks on certain forms of essentialism which in result justifiably weaken or even completely reject objective theories about ethics or well-being and consequently public policy. If we choose a set of values or properties that are human-related, we must be able to support our claims with valid explanations. It seems to me that although the first three approaches to human nature have failed to do so, Hurka’s *essence and life* view certainly carries some strength. However, I believe that an effective theory which can be used for just ethical and political purposes should be more concrete and clear, i.e. it should cover a wider range, rather than a narrow one, of specific aspects that have an impact on good life, worth living. The concept of rationality, for example, could be understood in various ways, leaving room for interpretation of whether a number of properties would fall under this category or not. By making it more explicit and by exemplifying concrete aspects of essential features of human beings, it makes a theory applicable in terms of creating public policy and reforming unjust practices.

One such theory of social justice is grounded in Martha Nussbaum’s capability approach. The overall definition of the capability approach is the following:

The capability approach is a theoretical framework that entails two normative claims: first, the claim that the freedom to achieve well-being is of primary moral importance and, second, that well-being should be understood in terms of people’s capabilities and functionings. (Robeyns and Byskov, 2021)

Nussbaum begins by defending what she calls ‘internalist essentialism’, as opposed to the metaphysical-realist one, the main difference between these views being that the latter presupposes correspondence of the truth and the world which cannot be grasped by a human mind (Nussbaum 1992, 206). On the other hand, internalist essentialism is ‘a way of looking at ourselves, asking what we really think about ourselves and what holds our history together’ (Nussbaum 1992, 208). The idea is that we evaluate our intuitive understanding of what it means to be human, by using a thought experiment method:

Consider, for example, the many stories told by ancient Greeks about the Olympian gods — beings who look like human beings, who have many of the desires and ways of acting, but who are also immortal and, in certain ways, unlimited. Imagining their way of life tells us something about the role of certain natural limits in making us the beings we are. Consider, on the other hand, the Cyclopes of Homer’s *Odyssey*, beings who have a human form but who live in isolation from one another and lack all sensitivity to the needs of others, all sense of community and affiliation. Again, we learn something about our own self-understanding when we notice that our stories treat such creatures as nonhuman monsters. (Nussbaum 1992, 2016)

In other words, we recognise humans as both vulnerable and social beings, with certain needs and capabilities. We recognise that because our imagination combined with our experience of humankind prevents us from understanding a life that is unrestricted by the laws of nature and that is lacking a crucial characteristic of the way we live as humans. In consequence, Nussbaum’s theory of the good will contain aspects of human life, including its limitations and abilities to function in a specific way. In the following chapter, I will examine her thick vague theory of the good, accounting for the specific features of human life Nussbaum puts on her list of central human capabilities to function.

## Thick vague theory of the good

The thick vague theory of the good is “a sketch of an internal-essentialist proposal, an account of the most important functions of the human being, in terms of which human life is defined” (Nussbaum 1992, 214). The term ‘sketch’ is used here intentionally since it aims to imply an open-ended list of central features, essential to all humans across cultural and individual differences, that is subjected to future revisions and corrections. The possible reasons for alteration include, first, becoming aware of yet undetected functions of societies, and second, identifying some features as more or less marginal than is previously thought (Nussbaum 1992, 216). The internal-essentialist approach allows for revisions because it is grounded in self-interpretation, dependent on conclusions drawn from intuitive thought experiments about the nature of human life, and experiences about societies throughout history. Therefore, the theory offers an approach to the essential functions of human beings which is not strictly fixed, but at the same time, it does offer a concrete, unambiguous set of features that make the theory useful in practical terms.

The name ‘thick vague theory of the good’ signifies three aspects Nussbaum aims to emphasize (Nussbaum 1992, 214-215). First, the list is of normative nature, for it clearly gives instructions based on which social and political institutions *should* be guided. Second, it references John Rawls’s ‘thin theory of the good’. As opposed to Rawls, who excludes the debate about the human good from the context of social justice, Nussbaum insists on the importance of such an account. Otherwise, the injustice being done to people such as Marx’s worker and women from rural Bangladesh cannot be detected. Therefore, Nussbaum’s term ‘thick’ confronts Rawls’s term ‘thin’ when talking about a theory of the good. Third, the term ‘vague’ indicates that the contents of the list are not imposing homogeneous values that should be promoted in the society, but rather that it supports pluralism by insisting on the individual freedom of choice.<sup>7</sup> According to Nussbaum, it is ‘better to be vaguely right than precisely wrong; I claim that without the guidance offered by such a list, what we often get in public policy is precise wrongness’ (1992, 215).

Based on that idea, Nussbaum (1992, 216-220) creates a list of essential properties every human life consists of: mortality, the human body, capacity for pleasure and pain, cognitive

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<sup>7</sup> The section "Two distinct thresholds" further explains this notion

capability: perceiving, imagining, thinking, early infant development, practical reason, affiliation with other human beings, relatedness to other species and to nature, humour and play, separateness. In other words, if life would lack one or more qualities from the list, it would not be accounted for as human life.

*Mortality* is a defining property of each human being, the one that eventually we all become conscious of and, consequently, have a certain degree of aversion to death, either our own or people we care about (Nussbaum 1992, 216). This awareness shapes our lives, the way we live is greatly conditioned by the thought that the extension of our life is limited, so we behave accordingly. Imagining a being that is human-like by all means, but is either immortal or mortal with a lack of aversion to death and thereby does not avoid any life-threatening situations, we would recognise neither of those forms of life as human (Nussbaum 1992, 216-217). Two possible counterexamples seem to me worth examining: the intentional ending of one's own life and the warrior's death. The intentional ending of one's own life would not be a counterexample because it does not undermine the fact that it is accompanied by negative emotions, i.e. a degree of aversion. People who commit suicide do not treat it as an everyday thing, and neither does society. Also, warriors such as Vikings would not be a counterexample either, because even though they were considering dying as an act of honour and were embracing death as a profound thing, this phenomenon was rooted in their metaphysical beliefs. They believed in the afterlife, which takes place in Valhalla, so the lack of aversion to death can be explained by their understanding of the end of life as the beginning of the new one.

*The human body*, according to Nussbaum (1992, 217-218), is conditioned by four types of needs: hunger and thirst, need for shelter, sexual desire and mobility. If we would encounter a being never having experienced the need for food and drink, or the need to protect itself from the heat and the cold, or the sexual need<sup>8</sup>, or the need to move from one place to the other, we would not acknowledge that life form as human.

*Capacity for pleasure and pain* is something that all members of humankind share, whereas the aversion to pain is something fundamental to all of us (Nussbaum 1992, 218). I will briefly examine one possible counterexample, that of a masochist. One could object to the claim that all human beings share the aversion to pain, given the fact that masochists are characterised by the desire to be harmed. They are defined by taking pleasure in the experience

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<sup>8</sup> Nussbaum emphasizes that this physical need is different from the others because people can live without the satisfaction of that particular need, but it is present nevertheless (1992,217).



of their own pain. However, in their case, pain is perceived instrumentally, as the means for achieving pleasure, and not intrinsically, as something good in itself. Submitting oneself to the experience of pain in order to gain pleasure is not something that is uncommon for humans. On the contrary, we tend to do it quite often, for example, when we wear uncomfortable shoes or clothes for the sake of appearance, or when we exercise. The difference between masochism and the previous two examples is that for most people it is not clear why would self-harming that a masochist enjoys be followed by the feeling of pleasure. Many are willing to wear uncomfortable shoes or clothes because they take more pleasure in aesthetic appearance than in the absence of pain. Likewise, many are willing to experience pain while being engaged in intense physical activities, because it will result in more pleasure. Therefore, in the case of masochism, even if the action that causes pain and results in pleasure is not a common one, the idea and motivation behind it are still tied to a human form of life.

*Cognitive capability: perceiving, imagining, thinking* is another defining feature of a human form of life, for we all share the abilities to use our senses, imagination and thought processes (Nussbaum 1992, 218). Although Nussbaum brings out that it is not a conclusive issue "what sorts of accidents or impediments to individuals in these areas will be sufficient for us to judge that the life in question is not really human any longer", she also emphasises that we can rightfully state that a group of beings lacking all of the above would not be of humankind (1992, 218).

*Early infant development* is another property that human beings share among themselves as species because each member begins his/her life as a helpless and dependent baby, and that is later on reflected as a complex emotional development of an individual (Nussbaum 1992, 218). If we would analyse a being who has never been a baby and was not conditioned by the emotions accompanying affection or rejection, we would not say that it belongs to the human life form.

*Practical reason* enables us to plan and evaluate in order to function and choose between options accordingly, and a life lacking this ability would not be classified as human (Nussbaum 1992, 219).

*Affiliation with other human beings* is a feature that defines humans as social creatures, in terms of both intimate relationships and broader ones that influence our lives and our identities (Nussbaum 1992, 219). Nussbaum also emphasizes the important role of practical reason and affiliation:

All animals nourish themselves, use their senses, move about, and so forth; what is distinctive and distinctively valuable to us about the human way of doing all this is that each and every one of these functions is, first of all, planned and organized by practical reason and, second, done with and to others. (Nussbaum 1992, 222-223)

*Relatedness to other species and to nature* makes human beings aware of animals and plants, understanding the co-dependence and interrelation of the natural system as a whole (Nussbaum 1992, 219). A being who equates animals and plants to an object and does not have any sort of concern for the other species would not be perceived as belonging to humankind (Nussbaum 1992, 219).

*Humour and play* determine our lives and even though their forms vary from culture to culture, we would say that a society lacking any ability to understand the need to laugh and play is not living a fully human life (Nussbaum 1992, 219-220).

*Separateness* is an obvious feature, but still, according to Nussbaum, needs to be accounted for because of the “talk of the absence of individualism in certain societies” (1992, 220). Each human being is a separate individual, and we have no difficulty in distinguishing between their numerically distinct identities.

It has been shown so far that Nussbaum justified the necessity of the essentialist approach to the human good and provided a list of features that should be considered in the context of social justice debate, for it signifies aspects that a human life cannot lack in order to be understood as human. In the following chapter I will show how, based on that, Nussbaum develops a list of basic human functional capabilities which allow for the achievement of a good human life.

## Two distinct thresholds

After introducing the list of the human form of life, Nussbaum's next concern is to provide a theory of social justice based on the capability approach. In other words, she aims to establish a theory that will offer guidelines for political purposes of ensuring a dignified human life for every person, no matter which culture he/she belongs to, and at the same time not interfering with autonomous choice of functioning. This has been done by introducing *two distinct thresholds* into the theory. The first threshold, which has already been examined in the previous section, concerns the capability to function "beneath which a life will be so impoverished that it will not be human at all" (Nussbaum 1992, 221). The other threshold is a higher one "beneath which those characteristic functions are available in such a reduced way that although we may judge the form of life a human one, we will not think it a good human life" (Nussbaum 1992, 221). Therefore, Nussbaum creates another list, that of *basic human functional capabilities*, offering prescribed guiding norms for the societies that should be provided for each citizen:

1. Being able to live to the end of a complete human life, as far as is possible; not dying prematurely, or before one's life is so reduced as to be not worth living.
2. Being able to have good health; to be adequately nourished; to have adequate shelter; having opportunities for sexual satisfaction; being able to move from place to place.
3. Being able to avoid unnecessary and nonbeneficial pain and to have pleasurable experiences.
4. Being able to use the five senses; being able to imagine, to think, and to reason.
5. Being able to have attachments to things and persons outside ourselves; to love those who love and care for us, to grieve at their absence, in general, to love, grieve, to feel longing and gratitude.
6. Being able to form a conception of the good and to engage in critical reflection about the planning of one's own life.
7. Being able to live for and with others, to recognize and show concern for other human beings, to engage in various forms of familial and social interaction.
8. Being able to live with concern for and in relation to animals, plants, and the world of nature.
9. Being able to laugh, to play, to enjoy recreational activities.
10. Being able to live one's own life and nobody else's; being able to live one's own, life in one's very own surroundings and context. (Nussbaum 1992, 222)

Every capability from the list is to be taken as of equal importance as any other (Nussbaum 1992, 222). That is to say that, for example, promoting physical health through free public health care cannot compensate for the lack of educational institutions. Each of the capabilities is essential and needs to be regarded as such.

Furthermore, the difference between people's *capabilities* and *functionings* should be emphasized, for it is of central importance for the theoretical framework of the capability approach that Nussbaum develops in her theory of the good. As it is evident from the list above, Nussbaum uses the terms 'being able to' when introducing a capability to function. She does so because public policy can only go as far as to provide the opportunities for people to do and be something but does not force them to function in a certain way. Functionings are the capabilities that have been realised but would not have been able to be realised if not for the opportunities that enable the transforming of capabilities into functionings.<sup>9</sup> For example, we would not say that a life without the possibility of affiliation with others is a human life. However, when society recognises that this capability needs to be taken into account as a central one and that citizens should be free to make their own choices of with whom and how they are going to be affiliated, it is up to individuals whether they are going to, for instance, have children or have a partner:

In many cases, the move from human life to good human life is supplied by the citizens' own powers of choice and self-definition, in such a way that once society places them above the first threshold, moving above the second is more or less up to them. (Nussbaum 1992, 221)

The idea is that the pluralism of values and the autonomy of the actual functionings are something that the government should not interfere with, although there is a concept of a good human life. It should remain up to the individuals what kind of life they are going to live, for they should have the right to lead a life of their own preference, whether an unhealthy, solitary and hedonistic one, or a healthy, sociable and intellectual one. But what should not remain up to the individual, if we want to practice a just public policy, is the struggle of the non-human way of living that is completely deprived of the choice to function in a dignified way. In order

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<sup>9</sup> This, again, is the concept of the conversion factors that has been described in the chapter "Motivation for the capability approach".

to illustrate the difference, the concept of the two distinct thresholds is sketched below, in Figure 1.<sup>10</sup>

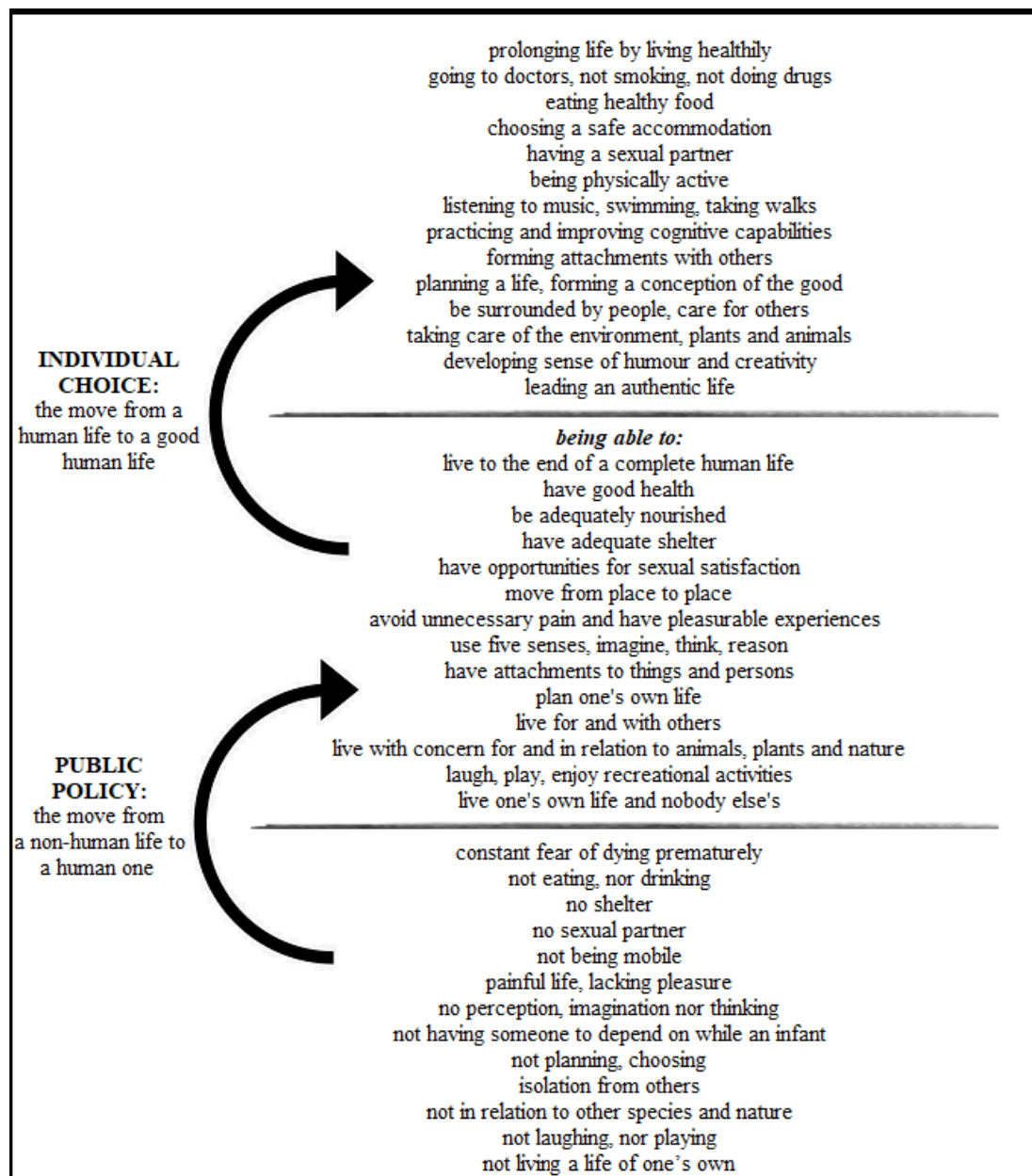


Fig. 1. Nussbaum's two distinct thresholds

Once a list of basic human functional capabilities has been created, we can proceed to ask "what social and political institutions are doing about them" (Nussbaum 1992, 214).

<sup>10</sup> The idea is to draw attention to the distinction of the two thresholds, not to represent the exact, precisely exemplified theory

Nussbaum insists that it is not enough to aid the ones who are ‘‘worst off’’ or the ones who lack the opportunity to function according to the concept of a good life (Nussbaum 1990, 228). The idea is that the political goal should be to ‘‘design a comprehensive support scheme for the functionings of all citizens over a complete life’’ (Nussbaum 1990, 228). In other words, there should be concrete programs and policies that are constructed according to the Aristotelian concept of the good:

The idea is that the entire structure of the polity will be designed with a view to these functions. Not only programs of allocation, but also the division of land, the arrangement for forms of ownership, the structure of labor relations, institutional support for forms of family and social affiliation, ecological policy and policy toward animals, institutions of political participation, recreational institutions—all these, as well as more concrete programs and policies within these areas, will be chosen with a view to good human functioning. (Nussbaum 1990, 230)

Nussbaum takes Scandinavian countries as an example of how an inquiry into the well-being of the citizens can be more comprehensive and closer to the Aristotelian conception of the good. The Swedish research included nine features, while the components list contained areas of human life, for example, ‘‘health and access to care’’, and the indicators list contained specifications, for example, ‘‘ability to walk 100 meters, various symptoms of illness, contacts with doctors and nurses’’ (Nussbaum 1990, 241). Although Nussbaum notes that it is somewhat unrefined because the capabilities and the actual functionings are being confused, the list is based on a promising concept of how social justice should be understood through well-being (1990, 241).<sup>11</sup> The advantages of this approach to the justice include sensitivity to the context, universality and comprehensiveness in terms of people’s well-being. Despite its many advantages, there are also certain objections that I will examine in the next chapter, which have been raised against the essentialism Nussbaum uses as the basis for her theory of social justice.

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<sup>11</sup> Nussbaum also objects the fact that the indicator of ‘‘family and social integration’’ is, among others, ‘‘marital status’’ (Nussbaum 1990, 241-242). The marital status may be ‘‘unmarried’’ but it does not consequently mean ‘‘without partner’’, so it is unclear how this segment should help with the inquiry about the affiliation.

## Answering the objections

Nussbaum's theory raises different types of objections, which can be classified into three groups: the attacks on the method, the attacks on the content of the list and the anti-essentialist attacks. Since in this paper I attempt to defend essentialism, I will be focused on the anti-essentialist group of objections. It seems to me that defending essentialism also serves as a basis for dealing with the widespread philosophical relativism. I will be defending Nussbaum's internal-essentialist account of the human good, which is independent of any metaphysical connotation, and, instead, relies on the argumentative force which derives its conclusions from the history of humankind and thought experiments. The use of metaphysical-realist explanations throughout the history of philosophical debates does not undermine the whole conception of evaluation. As Nussbaum noticed:

The collapse into extreme relativism or subjectivism seems to me to betray a deep attachment to metaphysical realism itself. For it is only to one who has pinned everything to that hope that its collapse will seem to entail the collapse of all evaluation — just as it is only to a deeply believing religious person, as Nietzsche saw, that the news of the death of God brings the threat of nihilism. (Nussbaum 1992, 213)

In other words, from the collapse of metaphysical realism, it only follows that the truth-makers should be sought within a grasp of the human mind, but it does not follow that it brings moral nihilism. For those who believe otherwise, it is clear that they attached moral values to the metaphysical realm, and when that justification was no longer available, they proclaimed the death of values as well. But morality and striving for a good life do exist in society, regardless of metaphysical explanations, and they are not relative to culture or individuals.

The first objection concerns the ‘neglect of historical and cultural differences’ if taking a standpoint that there are some defining features of human life (Nussbaum 1992, 208). It is argued that the opinions on the matters of what human life actually is vary to a great extent, and in the absence of a universal consensus, we have to sustain from interference. It seems to me quite problematic to rely on the concept of *culture* as something that carries justification of how people live, what the quality of their lives is and whether they are justly treated. The term ‘culture’ is a vague one, and it does not seem clear what it includes and what it excludes,

where it begins and where it ends, which opens room for interpretation and therefore potential manipulation. If a culture is understood through the preservation of different forms of artistic expressions, such as architecture, different types of cuisine or different linguistic practices, these differences are more than welcome, for they do not interfere with the basic human rights of its citizens. However, if a culture is understood through specific social practice and behaviour, the concept is so broad that it includes female genital mutilation, different religious dogmas and practice and other forms of oppression. I believe that the term ‘‘culture’’ should not be used in the debate about justice at all if understood in the latter way, for it gives protection to extremely immoral treatments under the alleged value of differences.

Differences are relative in their core meaning, but they are *neutral* in the evaluative sense. From the fact that something is different does not follow that it has value, it is neither good nor bad. But relativists seem to assign a positive value to differences, even though they are neutral. Some additional explanation is needed as to why differences are good in themselves. If X is different from Y, Y is different from X. This is all the information we can logically account for. But if we are to claim that the fact that X is different from Y carries a certain positive value *in itself*, we would have to accept the trivial implication that it is good that a tree is different from a flower, or that a left arm is different from a left leg. We would have to argue that this is *intrinsically* good, which seems counter-intuitive. On the other hand, if we say that it has an instrumental value because it is *good for* something else, we would have to offer a universal principle, which a relativist does not wish to offer. It could be said, for example, that differences are good because they allow for cultural authenticity. But by saying that, we are no longer relativists, for we set a universal norm that is not relative to a culture, but it concerns humankind as a whole – it is universal one. Furthermore, we would have to explain why precisely this norm is the one universal norm we are arguing for, and this results in the relativists having the same burden of justification as the essentialist does. The relativist then, when asserting that we should preserve historical and cultural differences, is facing a dilemma: either to accept the trivial consequences that make for a trivial theory or to abandon relativism and offer a universal normative theory.

The second objection concerns the liberal attack on essentialism in terms of neglect of autonomy. The liberal objects that when essentialists define central features of human life, they take away the freedom of authenticity from the individuals who would choose to live according to their own ways, if not for the paternalistic essentialist theory (Nussbaum 1992, 208). As Nussbaum also emphasises, a liberal is therefore an essentialist ‘‘about the central importance



of human freedom and autonomy” (1992, 208). It seems to me that, since relativism is not a consistent theory, whichever approach we support, we have to accept some degree of ‘paternalism’, otherwise, we cannot have institutions that promote a set of values, such as the justice system. Complete freedom and autonomy of individuals are neither possible nor desirable, for there must be limitations in the moral context and defined guidelines if we are not to go back to Hobbes’s state of nature. If the government imposes the value of education, health care and democracy, there will always be individuals who will feel that their autonomy is neglected because they do not want to get educated, vaccinated or be governed by a political party they did not vote for. On the other hand, if the government allows for complete autonomy, there would be no governing policies whatsoever, nor the need for the government itself. Paternalism does not need to have a negative connotation in all contexts, for we raise children by imposing central values, we govern societies by imposing laws. As long as these values and laws allow for a good human life and treat each individual in a just and equal way<sup>12</sup>, they cannot be accused of power-driven motivation. Moreover, it has been shown that Nussbaum’s thick vague theory of the good makes a clear distinction between capabilities and actual functionings, requiring the public policy to promote and provide the opportunities to practice capabilities but leaving the autonomous choice of the actual functionings to individuals. This does not contradict the theory of liberal democracy, for it also recognises people’s capabilities and aims to take care of them. For example, the capability to use resources or the capability to choose for oneself is of importance for liberal democrats and therefore is provided for by the government.

The third objection concerns the prejudicial application when it comes to choosing the norms that may exclude the powerless from the just treatment, as it has been the practice throughout history (Nussbaum 1992, 209). For instance, B. Ackerly argues ‘that ‘deep beliefs,’ which the approach [Nussbaum’s] takes as its primary data, often fail to support the list of capabilities; in fact, people’s deep beliefs seem often to be racist or otherwise discriminatory’ (2000, cited in Jaggar 2006, 305). It seems to me that any form of relativism does not avoid this problem, because in the cultural heritage it might be included that there are, for example, gender differences, such as in the case of illiteracy of women in the rural part of Bangladesh. Also, a liberal standpoint, as it has been shown, holds certain features, human freedom and autonomy, as essential for the good and just functioning of society. Neither of those two features is particularly positive in its own sense if we do not have additional norms applied in order to

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<sup>12</sup> By “equal” I do not mean that there should be a fixed set of principles which is not sensitive to contextual circumstances. My idea of equality corresponds to Nussbaum’s capability approach.

avoid immoral treatment of others. Absolute freedom and autonomy need to be limited by some standards, which prevent, for instance, the freedom of racial or gender prejudices. These standards, again, take the discussion back to what we value as humans and what set of norms does not exclude any member's rights to achieve a good life. We can support relativism, subjectivism or essentialism, but this does not mean that any of these theories prevents us from the prejudicial application. When the power-driven aspirations serve as the main goal, each theory leaves room for misuse at the expense of the powerless. If morality is relative to a culture, there is nothing that stands in between unjust treatment and all the justification that is embedded in the vagueness of the term "culture". If morality is relative to an individual, there is nothing that stands in between unjust treatment and the subjective perception of right and wrong. Also, if morality is defined by a set of universal principles, it might be the case that some are excluded from the theory and therefore are subjected to discrimination and oppression. However, I believe that there can exist a theory of social justice that is not motivated by the desire for power or sovereignty, and it seems to me that Martha Nussbaum's thick vague theory would fall under that category. What she is proposing that society should promote is rooted in the capabilities for the good human functioning of each individual. Her theory consists of both the minimum standard that should be provided so that a human being *is able to function* and the freedom of choice in terms of *how to function* and *to what degree*.

## Conclusion

Despite its lack of reputation in contemporary philosophy, Martha Nussbaum showed that essentialism still puts forward some important advantages when dealing with matters of social justice. When combined with the capability approach, it seems that it manages to grasp basic human needs that, if disregarded, prevent any human being from living a dignified human life. In the attempts to decrease oppression of the powerless, which is ingrained in the cultural, religious and power-driven practices, there is an obvious need for explicit theories that are not open for misinterpretation and that are not collapsing into relativism or subjectivism. It has been shown that cultural relativism fails to provide a well-grounded explanation as to why should the differences between societies be preserved when it comes to moral discussions and injustice done to its members. If we want to influence unjust practices, we must be able to evaluate them according to certain universal norms. Failing to acknowledge the benefits of the universal normative approach is to allow for the status quo, which is all too often not the status that permits the possibility for all human beings to live a truly human life.

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