

RACE AND OPPRESSION: PHILOSOPHICAL ISSUES IN
VOLUNTARY OPPRESSION

BY

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Abstract

In my dissertation I discuss voluntary racial oppression. In my view coercion is not required for all oppressive situations. The psychologically oppressed, internalizes the expectation of inferiority and becomes one's own oppressor. This theory of oppression can best explain the situation of racial minorities in the United States. There are no laws discriminating against racial minorities. So, their oppression is not externally inflicted.

I provide Sally Haslanger's theory of race. I believe in this theory of race, passing people are also victim of oppression. I discuss three harms of oppression: violence, economic oppression and stereotyping, and show that they can be both voluntarily and involuntarily inflicted. Although passing people are not victims of direct harm, they internalize the negative stereotypes and become their own oppressors. So, in order to end racial oppression, we ought to address both the political aspects of having rights and bringing everyone to the threshold level of functioning of capabilities.

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One

Introduction

In this dissertation, I review current theories of oppression, show what flaws these theories have, construct my own theory, and clarify how my theory of oppression differs from them. In doing so I will give a new metaphysics for what makes something oppressive. I will begin with Martha Nussbaum's capabilities approach as my basis for understanding oppression. For Nussbaum, capabilities are foundations for basic political principles that on the nation-state level should underwrite constitutional guarantees because granting each person dignity requires that people be "able to do and to be".¹ Having the freedom and autonomy to exercise one's capabilities is to live a life worthy of sentient beings. My basic claim is that underlying and justifying these constitutional guarantees is the fact that our capabilities generate rights. Applied to the blight of oppression, the implication is that if these rights are violated on the basis of group membership, persons are oppressed. This contrasts with Nussbaum's view, which asserts capabilities are a better way than rights to assess whether a situation is oppressive. According to Nussbaum, the appeal to rights does not fully capture the gravity of the oppressive situation. In my view Nussbaum fails to develop the closer generative connection between possessing a capability and possessing a right. If we make capabilities the basis for rights, then we can solve several puzzles for a theory of oppression. Since some capabilities are more

¹ Martha Nussbaum, *Women and Human Development* (Cambridge: Cambridge University Press, 2000), p. 5.

fundamental than others — e.g., the capability to maintain life — rights grounded on those will be fundamental and violations of those rights will be most grave.

Furthermore, this theory gives us good reasons to reject spurious claims about oppression. For instance it is senseless to say that unless men have the right to abortion they are oppressed. In my theory, men do not have the right to abortion because they do not have the potential way of functioning that entitles them to that particular right.

Although this theory of oppression can be used to determine many kinds of oppression, I will focus on racial oppression. Theories of oppression as applied to race often ignore the subtleties of racial oppression in the society while claiming equal treatment of races. Once the capabilities based theory of oppression is set out, I will then consider current theories of race, give my stance on a theory, how current theories of oppression capture racial oppression and how my theory will do so. I will show that current theories of oppression do not adequately capture how racial minorities can voluntarily oppress themselves. In the current study of oppression there is a dichotomy of Blacks and Whites that leaves out other racially oppressed groups. Although one cannot speak of racial oppression in the United States without, at least, mention of African-Americans, I use Mexican-Americans as my paradigm example of racial oppression. I chose to use the Mexican community as my main example because that is a community that I have been living among since I started writing my dissertation and because they make a good test case for a theory of racial oppression. They make up over 85% of my students, and my community. I believe

that is a good test group for two reasons; first, the current situation of U.S. political debate on immigration and the immigrants' rights directly affects the way we stereotype that group, how we understand them as the "other" and the consequence of the stereotyping in their social status. Second, those living south of the border have, for centuries, been searching for self-identity. This debate continues as they migrate north of the border and face their situation in the United States. It has been a fascinating learning experience to see how people self-identify individually or in their relation to others, and how the society racializes them. I should note that my theory does apply to other oppressed groups. I do not claim that my theory is unique to any particular racial group.

In chapter two I survey the dominant theories of oppression, mainly theories given by Iris Marion Young, T.L. Zutlevics, and Ann E. Cudd. I will then give my view and explain how it differs from the others, especially Cudd's view given her theory is closest mine. In Cudd's view there is a set of criteria that all cases of oppression share. Young argues that there is no unified theory of oppression. There are "five faces of oppression." They are exploitation, marginality, powerlessness, cultural imperialism, and violence.² She argues that there are no attribute or a set of them that all oppressed people share. Different faces of oppression have different attributes. She names different oppressed groups and sets to show us that these are different kinds of oppressions, although we call those kinds, "oppression". There is

² Iris Marion Young, "Five Faces of Oppression," in *The Philosophical Forum*, volume XIX, no. 4, 1988.

no one thing that makes them all oppression. I agree with her in that the concept “oppression” is manifested differently in different oppressive situations. However, I argue that they all have some criteria in common (Young agrees) and I give these criteria: systematic inhibition of their ability be it emotional, psychological or physical, based on their group membership. So, although she believes there are different faces of oppression, she argues, they still share some common characteristics. As we will see in Cudd’s view there are, using Young’s terms, *attributes* that all oppressed people share.

Zutlevics, on the other hand believes that there is a single theory of oppression that can capture all kinds of oppression. According to Zutlevics an act is oppressive, if it takes away “resilient autonomy”, which is having the security to live according to one’s values and desires even if the external circumstances, such as political parties, change.³ Although this view allows us to distinguish between oppressive and non-oppressive behaviors, it does not give any background reasoning on why resilient autonomy is universally important. At best, it is a correlation to, and not an explanation of, what makes X Oppressive. Many cultures do not consider autonomy valuable. Zutlevics does not answer these kinds of concerns. Although, I agree with Zutlevics that there is *one* theory of oppression, I believe Cudd’s view takes us closer to that theory.

According to Cudd there is one unified theory of oppression. She gives us four criteria that are necessary and jointly sufficient for an action or an institution to be

³ T.L. Zutlevics, “Towards A Theory of Oppression,” in *Ratio*, XV 1 (Oxford: Blackwell Publishing, March 2002), p. 80, 88.

oppressive. These criteria are, first, oppression has to include some kind of harm. This harm could be physical or psychological; second, it must be inflicted due to group membership; third, some people must benefit from the oppression; and lastly, it must include some kind of coercion or force.⁴ According to Cudd, coercion is always wrong and is what accounts for the injustice of oppression. In my view, the coercion criterion is not necessary to explain the injustice of oppression. Often, more subtle kinds of oppression are not coercive. Moreover, the oppression of a group usually continues by voluntarily (non-coercive) acts of the oppressed members of that group by internalizing the social expectations of them. It can nevertheless be identified as an injustice on the basis of how oppression results from unjust constraints that do not constitute literal coercion.

My theory differs in three others ways. First, my theory includes the systematicity criterion. That is, for a group to be oppressed, there are many interconnected factors involved to oppress that group. Second, to side with caution towards those who are oppressed but our theory might not capture, I will hold that these criteria are jointly sufficient and not necessary. Lastly, although not a flaw in her view, Cudd's theory of oppression lacks the metaphysics for injustice of oppression. The metaphysics that I will propose, using Martha Nussbaum and Amartya Sen's capabilities approach, will provide us with a metaphysics for our theories of oppression. The capabilities approach also gives a basis for why resilient autonomy is important and why its lack is associated with oppression. In summary,

⁴ Ann E. Cudd, "Oppression by Choice," in *Journal of Social Philosophy* 25th Anniversary Issue, 1994, p. 24-26.

oppression is to have one's capabilities systematically thwarted or taken away (violation of one's rights and unjustified harm) because of one's group membership, in order to benefit another group.

In chapter three, I will outline Nussbaum's capabilities approach. I use capabilities as grounds for my theory of rights, in which if violated based on group membership, is oppression. This is the main contribution I am making to Cudd's view and to the literature on oppression as well as rights. Nussbaum and Sen argue that there are certain human capabilities that ought not be destroyed or undermined. Although Sen does not, Nussbaum gives us a list that she claims is a list of basic human functional capabilities, some of which are crucial for participation in a flourishing life, while others are necessary. However, Nussbaum does not limit us to this list of capabilities. I should note that, naturally, not everyone will develop each of his or her capabilities but each individual must have the opportunity to develop them if so desired. The lack of such opportunity is an indication of social injustice.

I believe capabilities provide a better way than traditional theories of rights to assess whether a society or its institutions are oppressive based on a society's own standards. So, if the government does not have the means to provide the society with an education past high school, then people are not oppressed by their lack of education, but they are perhaps poor. They may still be entitled to help but not because people are oppressed. Oppression is a particular kind of harm but not any harm done is oppression. However, they would be considered oppressed if the government has the means but does not provide education for the citizens. In my view

capabilities translate into rights. Hence, my fourth chapter.

In the fourth chapter, I will cover two topics: first, Nussbaum's objections to rights as the measure of standards in a society. Second, I will argue that rights are generated by capabilities *contra* Nussbaum. Nussbaum argues that the capabilities approach is a better way than rights to address injustices. She gives three reasons for this. First, unlike capabilities, there are differing views on rights. Second, we are justified to treat people unequally if that is needed to bring everyone to a level where their capabilities can function. Third, as a pragmatic issue, rights are often looked at as a "Western" idea but capabilities are not. So we are able to overcome the claims of imperialism by those who commit the injustices. She adopts the talk of rights only to bring about the idea of having the autonomy to choose which of our capabilities we want to develop. I argue that individuals' capabilities are the basis for their rights. That no longer can be looked at as a Western idea but rather a universal human issue.

The goal of politics ought to include the protection and promotion of the capabilities of each person. Such protection and promotion should be understood to be part of what justice requires. Nussbaum uses the capabilities approach as an alternative to the talk of rights. I believe that capabilities generate rights. That is, if person X has the potential ability Y, then X must have the right to develop Y as long as the development of Y does not violate others' development of capabilities. With this view of rights, people will have the right to political activism because we have the ability to participate in politics. On the other hand, men do not have the right to receive an abortion, because they do not have the potential way of functioning

required for generating this right.

This view of rights is good for the following reasons: First, it gives us an understanding of rights as natural rights without the problems of natural rights as “god-given” or as epistemologically problematic. As Nussbaum pointed out, there are differing views on rights. Some argue that natural rights are rights given by god, but in the capabilities view, rights are granted based on individual’s capabilities regardless of any involvement of a deity. On the other hand, one might argue against natural rights altogether and argue for rights as civil rights. In that case, there might be an epistemological dispute about which rights we should have. Rights based on capabilities solve that problem as well, because my theory is very expansive and will allow for future capabilities to be added to Nussbaum’s list. We are not going to limit our capabilities to the limited understanding of what we have about human nature. This takes me to my second point that is also a response to Nussbaum’s second concern. I agree with Sen’s view on rights: rights-as-goals. So, each person only possesses the rights that each person has the potential ability of pursuing. The capabilities approach grants each individual rights to whatever she or he is capable to do. The capabilities based theory of rights will give us an accurate study of oppression in a particular society. Lastly, using capabilities as a basis for rights, individual’s capabilities are basic for rights. This understanding of rights can no longer be looked at as a Western idea but rather a human issue.

I will use my theory of rights and capabilities, to suggest some steps that we can take in order to end racial oppression. However, I first discuss my view of race

and in that context, I will make some suggestions. In chapter five, I will review the essentialist versus non-essentialist debate about race and point to some problems that are addressed in this debate. According to Anna Stubblefield essentialism about race claims that physical traits of a person are a reliable source to determine one's abilities, characteristics, desires, religion, etc. Non-essentialism is the view that the physical traits of a person are not such a reliable source. She argues that we should accept non-essentialism because there are more genetic differences between the individuals within one race, than there are systematic differences between races.

If non-essentialism is true, she asks, then how do we justify identifying with our racial group in order to fight against oppression of our groups? Stubblefield sets out to make consistent the non-essentialist view that she holds with the usefulness of racial identification in order to unify against the oppression of our race – those that we have some similarities with. I will aim to add to her view by introducing Sally Haslanger's view of race.

Further, Michael C. LaBossiere argues that it is not racial identification that we should be united under, as Stubblefield suggests. We should identify with one another under the *label* that we are categorized under and not necessarily with a particular racial group in which we share some similarity, whether or not there we *identify* with members of that group. For instance, in the Rio Grande valley the Mexicans that have lived here for more than a generation and have been integrated into the “White” community are frequently referred as “Whites” and they often self-identify as more or less White. According to LaBossiere, they ought to unite under

the label that they are given, the “Whites”. An interesting observation is that they resemble the non-White Mexicans, in appearance, just the same. I suspect these people see race as culture. The White-Mexicans are those who have lost much of their Mexican culture, and do not necessarily look White. In this community they are labeled “White” but in another community they might be labeled “Brown Mexican.” It is unclear how LaBossiere would resolve this kind of confusion besides the fact that he argues that all those who have been given an oppressive label should identify under the oppressive label to end the oppression.⁵ Surely, any group labeled in an unjust way, could work to remove that label, as LaBossiere suggests, but it misses the peculiar problems related to each labeled group. Although I think he has an interesting view, it is unclear which one of the harmful labels given to us we ought to unite under to fight our oppression. People often identify with a race by physical appearance and perhaps ancestral background.

However, both Stubblefield and LaBossiere fail in telling us what they mean by “race”? Is there a biological category “race” or is it a social construction? Is race determined by the physical appearance? Ancestry? Geographic area? I believe once we answer these kinds of questions we can then enter the debate about essentialism or non-essentialism about race. Race has often been understood as one’s ancestral background but one’s race becomes muddled if a person does not meet the “normal” description of one’s racial background in appearance. The interesting case of Blacks who were “passing” as Whites in the 30’s and 40’s comes to mind. They looked

⁵ Michael C. LaBossiere, “Racial Identity and Oppression,” in *International Journal of Applied Philosophy*, vol. 11, no. 2, Winter 97, p. 37.

White enough, so why were they taken to be Black? Although there are biological reasons for one's physical appearance, there are no other biologically interesting differences between humans significant enough to affect our basic capabilities. To some, ancestry seems to be sufficient for one's determination of race. That is if one's ancestors are from Asia, then that person's race is Asian. However, in a pragmatic use of the term, "race", people ordinarily use it to refer to one's appearance. More often than not minorities are victims of racial violence due to the way they look and not what race they *actually* have. Haslanger argues that people are *racialized* by both their appearance and geographical origin, and they benefit or harmed due to their racialization.

Haslanger's view of race could be further explained using Michael O. Hardimon's distinction between the *concept* of race and the *conception* of it. For our purposes, we are going to be concerned with the conception of race. Conception of X represents the concept of it. A concept can be represented "in a number of different and competing ways. It is part of the idea of a *conception* that a conception represents but one of a number of possible different and competing ways in which a given concept can be articulated."⁶ That is a concept can be interpreted or understood in several ways. According to Hardimon, these interpretations or understandings are "conceptions". We are not going to be only involved in exploring the metaphysics of race but also the conception of it – the way race is pragmatically used. This is interesting because it is the conceptions of race (the way that we are racialized) that

⁶ Anna Stubblefield, "Racial Identity and Non-Essentialism About Race," in *Social Theory and Practice* 3, 1995, p. 341.

the oppressors use in order to minimize and thwart a group's pursuits of capabilities.

In the concluding chapter, chapter six, I will, within my theoretical framework, make some recommendations on ending racial oppression, some of which are based on one's rights and others beyond rights. I will discuss typical harms of oppression (violence, economic oppression, and stereotyping), and suggest ways that they could be voluntary (as well as involuntary) forms of oppression. These harms are not mutually exclusive. In my discussion I will address the oppression, or its lack, of those who are racially "passing". I will argue that those who are passing, even if they racially identify with an oppressed racial group, can be and often are victims of racial oppression, although not in the same way. Internalization of expectation of inferiority (self-stereotyping) could keep them in an oppressed situation.

Two

A Survey of the Theories of Oppression

Oppression has been traditionally understood to refer to loss of one's freedom, liberty, or capabilities due to active actions of those in power (government). Fifty years ago, if asked, many would refer to Holocaust or slavery as examples of oppression. Nowadays oppression includes a much broader understanding. Oppression, as Iris Young contends, can refer to "systematic and structural phenomena that are not necessarily the result of the intentions of a tyrant" but rather they could be found in everyday minds and actions of each citizen, some well-meaning liberals, whether they know it or not.⁷ Examples of this would be hiring a Mexican woman to clean our house or a Mexican man to mow our lawn.⁸ This is, at least, an example of classism but perhaps racism as well. Whether or not these Mexicans are oppressed is arguable. However, it is evident that they do not belong to

⁷ Young, *Five Faces of Oppression*, p. 271. Consider this quote by Patricia Williams in support of what Young means when she says that oppression is perpetuated in minds of liberals. Liberals generally believe we should have neutrality among people of all races. That is, race ought not be a determining factor in hiring or not hiring someone. However, according to Williams, "Race-neutrality in law has become the presumed antidote for race bias in real life. With the entrenchment of the notion of race-neutrality came attacks on the concept of affirmative action and the rise of reverse discrimination suits. Blacks, for so many generations deprived of jobs on the color of our skin, are now told that we ought to find it demeaning to be hired, based on the color of our skin. Such is the silliness of simplistic either-or inversions as remedies to complex problems." (Patricia Williams, *The Alchemy of Race and Rights* (Cambridge: Harvard University Press, 1991), p. 48). However, liberals are right, if we lived in a world where race does not have any significance and never has had any significance.

⁸ I like to make two points: first, although we might pay the Mexicans well for their hard work, the fact still remains that the status quo is being held. This group is here to do the work that seems to be reserved for the poor Mexicans in the United States – there might be exceptions to this. It, at least, keeps them in a less advantaged social status. The jobs they keep carry no power or prestige. Second, this has been my experience in the state of Texas and Oklahoma. However, I make a more general point and that is, the oppression of these groups might not even be intentional. We all continue to do what we have always done. But here is a remedy. In a personal level, we could only pay them well, educate and empower them to better their lives but in a political level, the government could make venues to improve their qualities of life.

the privileged group. The privileged group is a group that benefits from the oppression of another group. So, to be in the privileged position, one is in a position to benefit from the oppression of another. Mexicans might be generally willing to do these jobs, but the fact that we hire them to do our chores continues the status quo. They too are doing what the society expects of them. As Marilyn Frye reminds us, many “of the restrictions and limitations we live with are more or less internalized and self-monitored, and are part of our adaptations to the requirements and expectations imposed by the needs and tastes and tyrannies of others.”⁹ There is no need for forceful governments, tyrants or abusive spouses. We do what is expected of us.

Women at the beginning of the second wave of the feminist movement believed that once we have laws against discrimination, then we can rid ourselves of sexism, racism, classism, etc., but Carol Pateman reminds us that social justice requires much more than making laws. We can make laws against discrimination, but it does not mean that social justice will necessarily follow.¹⁰ Perhaps when someone from a racial minority group applies for a job, the application is not discarded when the individual is present, or when a pregnant woman walks in for an interview, she is not told that ‘we do not hire pregnant women’, but many in management positions still have sexist or racist dispositions that could effect their decision-making, although the job description might read, “we do not discriminate against anyone based on

⁹ Marilyn Frye, “Oppression,” in *Feminist Theory: A Philosophical Anthology*, edited by Ann E. Cudd, and Robin O. Andreasen (Massachusetts: Blackwell Publishing, 2005), p. 89.

¹⁰ Carol Pateman, “Feminism and Democracy,” in *Democratic Theory and Practice* (Cambridge: Cambridge University Press, 1985), pages 204-217.

religion, gender, race, etc.” Further, the fact that there is so little social mobility between classes in our society is itself a sign that either people have accepted their positions or that the society is set up so that it is extremely difficult for people to make dramatic changes in their lives from the lives of their parents. Rich stay rich and the poor stay poor.

The upshot is that oppression is much more subtle than we once thought. It is “civilized”, as Jean Harvey puts it. *Civilized oppression* “involves neither physical violence nor the use of law. Yet these subtle forms are by far the most prevalent in Western industrialized societies.”¹¹ In order to better understand our society, we ought to have the theoretical framework by which we can recognize all kinds of oppression, including those that are not *prima facie* categorized as such, and those that do not have any one specific oppressor. We might find that most of us participate in oppression of others or ourselves in ways that are quite harmful to them or us.¹² Perhaps this identification would help in ending the attitudes that cause them. Hence, my choice of dissertation topic.

In this chapter I survey the dominant theories of oppression, mainly theories given by Iris Marion Young, T.L. Zutlevics, and Ann Cudd. I will then give my view and explain how it differs from the others, especially Cudd’s view since her theory is one that is closest to one I will offer. According to Cudd and Zutlevics’s view there is a set of criteria that all cases of oppression share. Young, on the other hand argues

¹¹ Jean Harvey, *Civilized Oppression* (Oxford: Rowman & Littlefield Publishers, Inc., 1999), p. 1.

¹² Harvey in her book, *Civilized Oppression*, gives a very interesting discussion of humor as a tool that oppressors use. She reminds us that having a sense of humor is highly prized as a virtue, although in many contexts, for instance where there is a power difference, it is a way of oppressing the one that the joke is about (see pages 8-16).

that there is no unified theory of oppression. I will start with her view.

Iris Marion Young

According to Young there are five “distinct structures or situations...[or] categories [of oppression:] exploitation, marginality, powerlessness, cultural imperialism, and violence.”¹³ Exploitation is the kind of domination that occurs “through a steady process of transfer of the results of the labor of some people to benefit others.”¹⁴ Mexican-Americans’ cheap labor is essential in many parts of the United States in different industries, such as farm-workers or cleaning personnel. Without their cheap labor, it is hard to imagine if we could continue enjoying current prices of available goods. In many parts of the United States the law enforcement officials have cracked down on illegal immigration, and some farmers have a hard time finding people who can do the work well and affordably. Some farmers worry that they might have to stop farming because of this new situation. Working in farms is hard work that requires skills. However, because Mexicans are an exploited group, their labor is not monetarily rewarded regardless of their immigration status.¹⁵ They do the work cheaply and we benefit.

¹³ Young, *Five Faces of Oppression*, p. 271.

¹⁴ *Ibid.*, p. 278.

¹⁵ I should note that the guest-worker program would not solve this dilemma for the farmers. They will not be able to pay minimum wage, keep the cost of food low and keep their farms running. Some have suggested that even if the guest-worker’s program is initiated, there will still be a need for illegal immigrants to work for smaller wages than those who have work permit and are entitled to receive minimum wage.

Marginalization: most racial oppression is marginalization and not exploitation.¹⁶ Marginalization is when “[a] whole category of people is expelled from useful participation in social life, potentially then subject to severe material deprivation and even extermination.”¹⁷ Moslem women, who wear hair-covering, in my view, are one of the most marginalized groups in our society. It is hard for them to acquire employment because of people’s stereotypes about them.¹⁸ That leaves them in a more impoverished situation. Although their family members might be financially well off, the women themselves are not. They are kept on the fringes of social power, which takes us to the next face of oppression, powerlessness.

Powerlessness “describes the lives of people who have little or no work autonomy, exercise little creativity or judgment in their work, have no technical expertise or authority, express themselves awkwardly, especially in public or bureaucratic settings, and do not command respect.”¹⁹ This goes back to the example of the Mexican workers. My experiences with those on the bottom of the social class category has been such that they are amazed if you treat them with respect and take them seriously as people and not merely as workers. They, for the most part, expect nothing and feel unsure about how to express themselves. Often their relationships with those that they identify with are not awkward or limited but in relation with

¹⁶ Young, *Five Faces of Oppression*, p. 280.

¹⁷ *Ibid.*, p. 281.

¹⁸ In a panel given in a Women’s Studies class at the University of Kansas, one Moslem woman said that it is hard to get any job at all. She had applied at about 30 places, anywhere from retail, to fast foods, to secretarial work and she had been unsuccessful. However, she pointed out that it is somewhat easier for professional Moslem women (doctors, nurses, etc.) to find suitable employments. Considering most people who go to college start working at retail shops or fast foods to support themselves, this puts the young Moslem women in a marginalized position. The panelist was a young college student who had experienced that firsthand.

¹⁹ Young, *Five Faces of Oppression*, p. 283.

those they perceive to be their social superior, they feel as though they have no power. They find themselves intimidated and unable to express themselves or influence the situation in any way.

Cultural imperialism “consists in the universalization of one group’s experience and culture, and its establishment as the norm” and is given preferential treatment.²⁰ Cultural imperialism is most obvious in a society like ours that places minority culture in an inferior status to the majority (White) culture. Again consider the Muslim woman who presents herself as such by appearance. She is not very likely to get the job if the proper way of dressing for a job interview is a suit. Dress codes are often culturally decided upon, but what makes the issue interesting is that in a diverse society as our own, the preferred dress code is Western attire. As a society, we prefer a suit to a Sari (Indian women’s traditional dress). The Western way of dressing is considered appropriate and dignified. Taking a look around the world we see the trend of people changing their traditional attires in exchange for jeans, t-shirts, business attires, etc. This represents wealth and class.²¹ Consequently, all minorities who expect to have careers are forced to put aside their customary attire and conform to the socially accepted ways of dressing as professionals in the United States.

Last in Young’s list is violence. This category refers to the groups that “suffer the oppression of systematic and legitimate violence. The members of some groups

²⁰ Ibid., p. 285.

²¹ That is a sign of cultural imperialism and is oppressive even though the oppressed do accept it as their own. The developing countries (or their immigrants to the West) do accept the Western appearance as superior to their own. As a young child in Iran, I was fully aware that everyone I knew ridiculed many of the traditional ways of dressing in Iran (not Islamic attire) to be the look of an “uneducated peasant” and the Western attire as “classy and respectable.” That is a vivid example of internalization of cultural inferiority.

live with the knowledge that they must fear random, unprovoked attacks on their persons or property, which have no other motives, but to damage, humiliate, or destroy the person.”²² Women have always been victims of domestic and sexual violence. Women victims of violence constantly fear random attacks because the perpetrators are not usually predictable. Further, women often fear being raped. Women often live with the knowledge that they, or someone they know will be victim of sexual assault. Most women, most of the time, fear being raped if walking after dark, be it walking from a class to the dorm room or from the parking lot to one’s apartment. This is both emotional and physical violence. Examples of this face of oppression are far too many to mention here but I will name only a few more; Homosexuals, Moslem men, Jews in Germany during the time surrounding WWII and the African-American men in the United States who are attacked by the police without much provocation are all examples of violence. African-Americans are more likely to be victimized the police than any other race.²³ This is clear to anyone who keeps up with the national news. After the Twin Tower attacks, Middle-Eastern men have also been victims of violence by the local or federal police or their neighbors. Lastly, homosexuals are beaten, ridiculed, humiliated or even killed due to no other reason but their sexual orientation. Recall the case of Mathew Shepard who was beaten and left to die tied up to a fence in a cold Wyoming night, after leaving a bar

²² Young, *Five Faces of Oppression*, p. 287.

²³ David Jacobs, and Robert M. O’Brien. “The Determinants of Deadly Force: A Structural Analysis of Police Violence,” in *The American Journal of Sociology*, vol. 103, no. 4. (The University of Chicago Press, January 1998). This article points out that the cities with a Black mayor see a reduction in the rate of killings of Blacks by the law enforcement officers.

with two young men who offered him a ride.²⁴ All of these are examples of violence. Some people cannot safely walk the streets, travel in the airports, leave a bar, or accept an invitation for a late night walk because they expect unprovoked violence.

According to Young, there is no single criterion or set of attributes by which we can describe oppression (or unify these five categories). Each of these is different. Each is the result of different circumstances that cause each group to be oppressed. To come up with a set of attributes (criteria), we are, according to Young, reducing all oppressions to merely one category and losing the important subtleties that each entails. Further, we might leave out groups that are oppressed by reducing oppression to one unified theory.²⁵ Alison Bailey agrees with Young that oppression is not a “unified phenomenon” because each group experiences it differently. The “felt experience of oppression of a working-class white woman, for example, will be different than the felt oppression experience by a middle-class African American male.”²⁶ Accordingly, this difference in perspective counts for more than a feeling. She points out that the perspective of the victim will give him or her an authority to speak of one’s experience. The perspective of an Auschwitz survivor on racism will be different than an African-American’s living in Detroit. Surely this perspective or feeling might be different but it does not entail that there is no unified theory of oppression. Two people can read the same book and have different *feelings* or perspectives about it or see it from different background. I think Young recognizes

²⁴ More on the story can be found on http://en.wikipedia.org/wiki/Matthew_Shepard.

²⁵ Iris Young, *Justice and the Politics of difference* (Princeton: Princeton University Press, 1990). p. 42, 63.

²⁶ Alison Bailey, “Privilege: Expanding on Marilyn Frye’s ‘Oppression’,” in *Journal of Social Philosophy*, vol. 29, no. 3, Winter 98, p. 106.

this, although she does not acknowledge it. I will show that Young does have some general criteria for oppression.

First, Young claims that we can generalize that “all oppressed people share some unjustified inhibition of their ability to develop and exercise their capacities and express their needs, thoughts, and feelings.”²⁷ Certainly she is not reducing one oppression to another but she gives us one single criterion that is necessary for all oppressed groups to share. That does not mean that anyone who has an inhibition of ability to develop one’s capabilities is oppressed, but that this criterion must be present.

In addition to this criterion, she lists two more. She claims that oppression also “refers to systematic and structural phenomena.”²⁸ This I call the systematicity criterion. Oppression also refers to “structural phenomena that immobilize or reduce a *group*.”²⁹ Oppression is the systematic inhibition of a *group* “through a vast network of everyday practices, attitudes, assumptions, behaviors, and institutional rules. Oppression is structural or systematic.”³⁰ Marilyn Frye agrees that there are many situations and forces that work together in order to oppress a group.³¹ Consider this quote by Judith Andre: “A single assault – even murder – is not oppressive, for there are many categories of human evil besides that of oppression.”³² As mentioned oppression is a particular kind of harm done to a group because of their membership

²⁷ Young, *Five Faces of Oppression*, p. 271

²⁸ *Ibid.*, p. 271.

²⁹ *Ibid.*, p. 273, emphasis added.

³⁰ *Ibid.*, p. 275.

³¹ Frye, *Oppression*, p. 84-86.

³² Judith Andre, “Power, Oppression and Gender,” in *Social Theory and Practice: An International and Interdisciplinary Journal of Social Philosophy*, vol. 11, Spring 1985, p. 114.

in that group and that harm is done in a systematic way. Patty might be victim of murder because the murderer hates women. However, if this is an isolated event in an isolated situation, it is not oppression, although it is a grave harm and certainly a crime. The systematicity criterion is the *ongoing* acts of harm done on a group. I agree with Andre that no particular person or plan is necessary to keep oppression going, although, as Frye points out, none of the forces of oppression are accidental or occasional.³³ These kinds of harms often happen, some people make them happen as much as they can, and if no particular person or group is aware of this, it is still not accidental. According to Cudd, we do not even need a group that is *knowingly* doing the oppressing, just as long as each person is doing what he or she does to keep the status quo, the systematicity criterion is met.

Given this list of conditions that has to be there for oppression to exist, Young contradicts herself when she says: “Because different factors, or combinations of factors, constitute the oppression of different groups, making their oppression irreducible, I believe it is not possible to have one essential definition of oppression.”³⁴ However, it seems that the only way to understand her position is to say that oppression will entail, at least, (1) inhibition of capabilities, (2) this inhibition is systematic, and (3) this inhibition of capabilities is done based on one’s group membership. These are to be present in all the categories (faces) of oppression that are named above. Once the situation is recognized as oppression, we can decide which of the five mentioned above are happening. As Zutlevics, Cudd, and I agree,

³³ Frye, *Oppression*, p. 85; Andre, *Power, Oppression, and Gender*, p. 114.

³⁴ Young, *Five Faces of Oppression*, p. 276.

although there are some criteria of oppression, the concept “oppression” is manifested differently in different situations. Young does not persuade us otherwise. So, we are on our way to giving a unitary and universal set of conditions for an action to be oppressive. As we will see in Cudd’s view, there are, using Young’s terms, *attributes* that all oppressed people share which include some but not all of the criteria that Young talks about.

T. L. Zutlevics

Unlike Young, Zutlevics believes that there is a single theory of oppression that can help us identify all kinds of oppression; “By identifying those underlying features which render a situation oppressive, we are less likely to miss categories of oppression not included in Young’s list of five.”³⁵ Zutlevics argues, “to be oppressed is to be unjustly denied the opportunity for what [she calls] ‘resilient autonomy’ [RA, hereafter]”, which is having the security to live according to one’s values and desires even if the external circumstances, such as political parties, change.³⁶ She adds that being denied resilient autonomy is a sufficient condition for oppression and not a necessary one.³⁷ Zutlevics asserts that resilience exists if the following two counterfactuals hold: first, “resilient autonomy exists if, and only if... were S to decide to change her life [plans] then she would not be unjustly constrained from doing so. Second, [S has resilient autonomy if] any change in external circumstances

³⁵ T. L. Zutlevics, “Towards A Theory of Oppression,” in *Ratio* XV 1 (Oxford: Blackwell Publishing, March 2002), p. 82.

³⁶ *Ibid.*, p. 80, 88.

³⁷ *Ibid.*, p. 85.

... would not present an unjust impediment to S's living in accordance with her values and desires."³⁸ In the first case, S changes her values based on her own decision, but in the second, she does not. So, according to Zutlevics, one ought to have the opportunity to live a resiliently autonomous life. She adds, however, that RA can justly be taken away. For instance, by jailing criminals we take RA away from them but that is justified (assuming laws are). So, the mere fact that there is a lack of RA, does not mean that the person is oppressed.³⁹ Consider her example.

Person A receives an unjust parking ticket. According to Zutlevics, it is not oppression if it has no long-term harm, no financial burden, it is not a part of an intimidation campaign, the individual is not physically harmed, and it does not alter one's life goals or plans. 'Life plans', according to Zutlevics, "refers merely to what it is that a person *broadly wants to do* in and with his or her life, not some inflexible or unchanging set of goals."⁴⁰ So, as far as one's general goals in life are not altered, due to receiving this unjust ticket, the person getting the ticket is not oppressed because RA has not been violated. Getting a parking ticket, although unjust, Zutlevics claims is an isolated event and does not lead to any other instance of injustice nor does it make the person who received it to change his or her life plans.⁴¹ So "to be oppressed is to suffer serious or pervasive injustice", supposedly those resulting from lack of

³⁸ Ibid., p. 88.

³⁹ Ibid., p. 84.

⁴⁰ Zutlevics, *Relational Selves, Personal Autonomy and Oppression*, p. 425. She borrows this definition from Robert Young, *Personal Autonomy: Beyond Negative and Positive Liberty* (London: Croom Helm, 1986), p. 8. This definition, if explored in more detail, might fall into a circularity problem. According to Zutlevics, oppression is lack of resilient autonomy. Having resilient autonomy is changing or keepings one's life plans as one choose. Suppose one's life plan, *broadly*, is not to live an oppressive life. So, oppression is not living an oppressed life, which is circular. It is mere tautological or conceptually empty.

⁴¹ Zutlevics, *Towards a Theory of Oppression*, p. 83.

RA.⁴² So it seems that she believes that oppression is lack of RA that leads to a “serious or pervasive injustice” but we are not told what that might be.⁴³

There are several issues to be dealt with in her view. First, a slight change in the scenario will make the parking ticket oppressive. Suppose due to the unjust ticket she received, she has to park four blocks away, which means she has to leave for work sooner, which means she will lose the time she spent with her family at breakfast. Although this is not a grave situation, it is a particular way that she has had to change her life, (not life plans as she defines it) although this change may not be pervasive, it has made her life unnecessarily altered. Lack of RA entails that one’s life plans are altered. Therefore, given Zutlevics’s definition of RA, her RA has been taken away. When an individual’s RA is unjustly taken away or constrained there is oppression. The single act of unjust treatment (for instance being victim of a crime, although an isolated event) could force one to change one’s life plans to a point where they are completely altered. In such case, Zutlevics will have to agree that some pervasive injustice is done. She has not altered her personal goals but is no longer able to live according to her values. Since getting an unjust parking ticket could lead to unjust violation of RA and so oppression, it will be extremely difficult to distinguish injustices due to crime, personal misfortunes, or accident, from oppression. My example does not change the analysis of her case but it points out that there are crucial distinctions between crime, accidents, and oppression, which her

⁴² Ibid., p. 84.

⁴³ Something can be pervasive or not depending on the person. I believe that Zutlevics should give us an account of *objective* pervasiveness.

view does not capture. Our theory of oppression must pick some particular kind of injustice. Perhaps Zutlevics will argue that all ‘serious or pervasive injustices’ that unjustly takes away RA are oppression. But this falls into the problems of reduction that Young is concerned with and that is reducing oppression to just any pervasive harm. I disagree with this formulation of oppression. I believe that oppression is a particular kind of injustice done systematically on a social level based on a group membership.

Unlike many scholars of oppression such as Frye, Cudd, and Young, Zutlevics does not have a group membership criterion in her theory of oppression.⁴⁴ That is, individuals can be oppressed as long as their resilient autonomy is unjustly taken away or the means are not provided for people to make resiliently autonomous choices. It would seem that a person who has been robbed is, in this account, oppressed, because one’s RA is taken away. Supposing that this is an isolated event in an isolated situation, it is not clear why Zutlevics would say this is oppression.

Oppression is a particular kind of social / political injustice. To say that any event that makes one change her life plans (as lack of RA entails) is oppressive is subjective and consequently it would be hard to distinguish injustices caused by random unfortunate events from acts of oppression. This problem alone undermines many racial, religious, sexual, class, or age, oppressions and minimizes the harms done to the oppressed. For instance, it would imply that a group that is the victim of gender oppression is the same as a White, heterosexual, wealthy man who is the

⁴⁴ Cudd, *Oppression by Choice*, p. 25; Frye, *Oppression*, p. 87; Young, *Five Faces of Oppression*, p. 273.

victim of theft. In this case, he might change his life goals and values because he feels now that, he too can be a victim. Although we do not want to deny that he is victim of a crime, it should be noted that he is not the victim of oppression. He might have to make life plan changes in order to prevent this kind of harm again. It would be trivializing to label both this event and slavery, oppression. Certainly there is some harm involved but they are different kinds of harms. I do not believe that the lack of RA is a sufficient condition for oppression, because, as I have shown, there are cases in which RA is violated, that are not cases of oppression, although there is harm done. At best we could conclude that at times the unjustified denial of RA points to an oppressive situation. However, we are not sure what those times are or when RA can be justly taken away.

In summary, lack of RA as the criterion for oppression picks anyone in the society that has experienced a life-changing harmful event. This is too broad. Sometimes there are events in one's life, that leads to one's change of life plans, but that are not oppressive.

Further, this theory does not account for more subtle cases of oppression, namely, psychological oppression.⁴⁵ Often times, the oppressed internalize the expectations of their oppressors and make those expectations their own. In such cases, not uncommon, the oppressed become their own oppressors and believe the decisions that they make are their own authentic choices, although they are indeed the oppressors' decisions. So, the oppressed might not "feel" oppressed although they are

⁴⁵ I will say more on psychological oppression later in this chapter.

oppressed. These cases are not, and I do not believe they can be, addressed by Zutlevics's theory, because RA has not been taken away.⁴⁶ The psychologically oppressed will not know there is another way to be, and if presented with other choices, she might reject them. One, who suffers from false consciousness, might change her life, if the political environment changes, but she will not see it as a threat to her autonomy.⁴⁷ Zutlevics, rightly, does not look for a rigid set of goals in life that are uncompromising. She looks at our goals as more broad. So, not any change of life is a sign of lack of RA but only those that force individuals to change. In the case of the psychologically oppressed, they often argue that they are not forced to choose the lives that they lead but rather their decisions are authentic ones.

On a final point, even if this theory of oppression allows us to distinguish between oppressive and non-oppressive behaviors, it does not give any background reasoning on why resilient autonomy is so universally important. At best, it is a correlation to, and not an explanation, of what makes X oppressive. Many cultures do not consider autonomy valuable. We must address why having RA is important and why its lack is a sign of oppression. Zutlevics does not answer these kinds of

⁴⁶ Recall the definition of RA, which is having the security to live according to one's values and desires even if the external circumstances, such as political parties, change (Zutlevics, *Towards A Theory of Oppression*, p. 80, 88). Given this definition of RA, a person who is psychologically oppressed would still be able to live according to his or her values and desires, although they may not be authentic ones. We are left to say that there are no cases of psychological oppression. Perhaps she has another way to explain psychological oppression but lack of RA does not account for it.

⁴⁷ Cudd makes the distinction between empirical theory of coercion and moral theory of coercion. The former claims that a situation / person is coerced only if she feels coerced. The latter suggests that although she might not feel coerced she *is* coerced because she is denied some right (see Cudd's *Oppression By Choice*, p. 26, 31). I agree with her that we are concerned with the moral (objective) theory of coercion and not how one might feel about her situation. This same distinction should be made in the case of oppression. That is we ought to make distinctions between empirical and moral cases of oppression. Someone who is psychologically oppressed does not consider herself oppressed although objectively she might be. This is the study of oppression that is philosophically interesting.

concerns. Although, I agree with Zutlevics that there is *one* theory of oppression, I believe Cudd's view takes us closer to that theory. I now turn to Cudd's theory.

Ann E. Cudd

According to Ann Cudd, there is one unified theory of oppression. She gives us four criteria for oppression that are necessary and jointly sufficient. These criteria are, first, "oppression must involve some sort of physical or psychological harm..."⁴⁸ Harm could be either justified or unjustified. An imprisoned convicted criminal is harmed but the harm done is justified. Therefore, it is not the kind of harm that is oppressive. Oppression is always a harm but not any harm done is oppression. Oppression is a harm that unjustly limits one's "freedom or choice *relative* to other in one's society."⁴⁹ If everyone in a society is harmed in the same way for the same reasons, that harm is not one that would indicate oppression. For instance, if no one had access to running water, including the government, then those people are not oppressed. Not having access to running water is harmful but, in itself, it does not show oppression of any particular people in a society. Hence, Cudd's second criterion of oppression.

Second, harm must be inflicted to a social group due to their membership in that group by another social group. A social groups is one that individuals belong to "independently of their oppressed status... [one] that they closely identify with, so

⁴⁸ Cudd, *Oppression by Choice*, p. 25.

⁴⁹ *Ibid.*, p. 25. Emphasis added. I believe harm is violation of some capability. I will explore capabilities in the chapter three.

that the harm attaches to their very self-image.”⁵⁰ -- For instance, race, gender, sexual orientation, or religious groups. Unlike in Zutlevics’s view, for Cudd, individuals cannot be oppressed as individuals but only as members of a particular group. A White heterosexual man who has been robbed is not oppressed but he is certainly a victim of crime and harmed. However, if society systematically targets that group for robbery, then we can say that he belongs to a group that is harmed because of his group membership and is oppressed. Every member of an oppressed group is oppressed although in some cases it might be hard to see. For instance, Condoleezza Rice may seem like she is not oppressed given her social status and political power, but she is. She faces the same fears and limitation as all other (Black) women in less powerful positions in society.⁵¹ Women fear being attacked, raped, or become victims of sexual assault, regardless of the social status that they might hold. Being an African-American woman she has barriers to cross that White women do not. In short, although some people who belong to the oppressed group might not appear oppressed, they nonetheless are.

Third, the social group that is doing the oppressing must benefit from the

⁵⁰ Ibid., p. 25. I should note that sometimes people belong to groups that they do not identify with. For instance, one might belong to the group of Black women but not closely identify with that group.

⁵¹ We can argue that she is victim of “tokenism” which is, according to Suzanne Pharr, “a method of limited access that gives false hope to those left behind and blames them for ‘not making it.’” (*Homophobia: A Weapon of Sexism* (California: Chardon Press, 1988), p. 62-63.) She can and does contribute to the oppression of her group. Once we see Rice in one of the highest government officials it gives us appearance of equality in our society and we wonder why all the others (women, Blacks, or Black women) do “not make it”. We then blame them for their failure. See Lani Roberts, “One Oppression or Many?,” in *Philosophy in the Contemporary World*, vol. 4, no’s. 1 & 2, Spring & Summer 1997, p. 45.

oppression. Cudd refers to this group as the “privileged group.”⁵² Not every single member in the privileged group is actively and knowingly an oppressor but that they all benefit from the membership in that group. The privileged group is a group that society favors for respect, jobs, salary, government office, and many other benefits. White, heterosexual men in our society certainly fit this description. The fact that the United States has never had anyone but White men for president is a good indication that our society favors White men and that they are the ones with power. The social elite in this society is by far White men. “Although women make up almost half of America’s labor force, still only two Fortune 500 companies have women CEOs or presidents, and 90 of those 500 companies do not have *any* women corporate officers.”⁵³ The White heterosexual men, who fight for social justice and oppose patriarchy, racism, or religious persecutions, do still benefit from the oppression of minorities, whether they know (or desire) it. Cudd points out “typically cases of oppression involve persons who reinforce the status quo social norms without thereby intending to harm anyone else, or even without being aware that upholding the status quo could harm others.”⁵⁴ This could be any of us in any group who keep doing what we are expected to do without challenging the system.⁵⁵ For instance, we keep sexism

⁵² Ann E. Cudd, “Psychological Explanations of Oppression,” in *Theorizing Multiculturalism: A Guide to the Current Debate*, edited by Cynthia Willett (Massachusetts: Blackwell Publishing, 1998), p. 187-216.

⁵³ John Gettings, David Johnson, Borgna Brunner, and Chris Frantz, *Wonder Women: Profile of leading female CEOs and business executives*. This data was gathered from the following website: <http://www.infoplease.com/spot/womenceo1.html>

⁵⁴ Cudd, *Oppression by Choice*, p. 25.

⁵⁵ This parallels bell hooks’s view on feminism. According to hooks we live in a patriarchal society. To be a feminist is to oppose patriarchy, which is to oppose our social system as a whole (see "Let's Get Real About Feminism: The Backlash, the Myths, the Movement," in *Ms.* September/October, 1993, pages, 34-43).

alive and well when we keep the gender roles going without posing any serious challenges to them. For instance, when any well-intending person buys my daughter a pink dress or a doll, continues to engender in her what her socially accepted roles are, roles that are set by a patriarchal society. Susan Stark takes this a step further. She claims that we contribute to the oppression of African-Americans in our society by living and paying taxes in a society in which the government is mainly made up of white upper class men.⁵⁶ If she were right, it would mean that African-Americans contribute to their own oppression. Although this seems like blaming the victim, I think she brings up an interesting challenge.

Lastly, oppression must include some kind of coercion or force. Coercion is “lack of voluntary choice.”⁵⁷ Cudd reminds us that we always have a choice, even when we are mugged. We have a choice of giving up our wallet or risking our lives. When we “choose” to give up our wallet it is not a free choice and therefore has a different moral standing as a choice that is free. So, coercion is not “absence of all choice, but a lack of the right kind of choice [voluntary choice].”⁵⁸ According to Cudd, coercion is always wrong and is what accounts for the injustice of oppression. So, to say that oppression is an injustice, it has to be forced (or coerced). She adds, to judge something (objectively) coercive it ought to be looked at from a moral background rather than an empirical one. That is, we must ask, is X coercive because

⁵⁶ Susan Stark, “Taking Responsibility for Oppression: Affirmative Action and Racial Injustice,” in *Public Affairs Quarterly*, vol. 18, no. 3, 2004.

⁵⁷ Cudd, *Oppression by Choice*, p. 27.

⁵⁸ *Ibid.*, p. 27.

it denies someone a right that she or he is entitled to, or is someone *feeling* coerced?⁵⁹ In the latter case, we will end up with a subjective account of coercion. As a result, any situation where one might be faced with a hard decision would be coerced. Cudd agrees with Robert Nozick's account of coercion. That is coercion "should be judged against a background moral theory that takes autonomy, as well as property rights, seriously."⁶⁰ So, her account of coercion is backed with a rights based moral theory.

A Discussion of Cudd's View

My theory of oppression closely parallels Cudd's theory with some revisions. First, I do not believe we need to consider coercion as always immoral to explain the injustice of oppression. Certainly in the ordinary use of "coercion," including Cudd's, a prisoner (murderer) is coerced: he is actively and intentionally forced to remain in a particular place, perhaps for life, against his will. Although he has the right to autonomy and his rights to live a free life have been violated, this violation (coercion) is justified by the need to prevent his future attacks on others, and perhaps other considerations as well.⁶¹ Cudd agrees that some kinds of harm are justified. So, the presence of harm alone is not always a sign of oppression. She writes, "to make a claim of oppression is to show that the harms involved are unjustified, or

⁵⁹ Ibid., p. 27.

⁶⁰ Ibid., p. 31. Cudd later (p. 33) points out that although this view is individuals coercing individuals, institutions could do that too. That is, coercion is often inflicted by social institutions. For example, the way the mining industry is set up and portrayed in our society, it is a "man's" job. Women are discriminated and verbally harassed when they work as miners.

⁶¹ Zutlevics makes a distinction between justified and unjustified inhibition of resilient autonomy. So, there are times that we can justly force or coerces people or take their resilient autonomy away and we do not commit an injustice.

correlatively, to show that some harms are justified is to show that they are not oppressive.”⁶² In my view of oppression, harm is normative and it is violation of one’s capabilities. I believe the same can be said for coercion, that it is not necessarily always wrong. We can make normative claims about both coercion and harm by pointing out whether they are justified or not. Imagine a purse-snatcher who has been caught by the police and forced to the ground. Surely he is both coerced and harmed and both are justified in this case.

Therefore, I do not believe that the coercion criterion is a necessary element of oppression. Often, more subtle kinds of oppression are not coercive. Consider cases of psychological oppression. These are often cases in which there is no coercion or force involved, individuals have the *free choice* to make decisions beyond the ones they did make and so there is no *lack of voluntary choice*. The psychologically oppressed become their own oppressors. The choices are perhaps politically available to them, but they will not make choices other than ones that their society or culture demands of them. Sandra Bartky defines psychological oppression as follows:

To be psychologically oppressed is to be weighed down in your mind; it is to have a harsh dominion exercised over your self-esteem. The psychologically oppressed become their own oppressors; they come to exercise harsh dominion over their own self-esteem. Differently put, psychological oppression can be regarded as the ‘internalization of intimations of inferiority’.⁶³

The psychologically oppressed will not often consider themselves oppressed but in essence they become their own oppressors and so participate in their own oppression.

⁶² Ann Cudd, *Analyzing Oppression* (New York: Oxford University Press, 2006), p. 23.

⁶³ Sandra Bartky, “On Psychological Oppression,” in *Femininity and Domination: Studies in the Phenomenology of Oppression* (New York: Routledge, 1990), p. 22.

These people are not coerced or forced to make choices that are harmful, nor are they forced to accept their inferior position. They believe that whatever their social or political status is, they have freely and voluntarily chosen it, although their status is one of inferiority. Using Marx's terms, they suffer from false consciousness. Having false consciousness, according to Bartky, is to be "Systematically deceived as we are about the nature and origin of our unhappiness, our struggles are directed inward toward the self, or toward other similar selves in whom we may see our deficiencies mirrored, not outward upon those social forces responsible for our predicament."⁶⁴ That is, we are taught that if we are not happy with our lives, it is some deficiency that we, as women, suffer from and it is not the social forces that keep us down. In other words, the victims are blamed for their predicament. It is like telling a raped woman that her clothing and smiles were "inviting" the rapist to rape her. This takes the blame off the rapist and she comes to accept that the assault was indeed her fault. A young woman in her late 20's told me that she was embarrassed to tell her family that she was raped when she was 14 because she could have done something about it but did not. So, it would show that she is powerless.

The oppression of a group usually continues by voluntarily (non-coercive) acts of the oppressed members of that group by internalizing the social expectations of them.⁶⁵ This is what Martha Nussbaum calls *adaptive preferences*, the situation

⁶⁴ Ibid., p. 31.

⁶⁵ Cudd asks us if we can voluntarily through rational choices oppress ourselves by giving us the Lisa and Larry case (I will discuss the example shortly). However, she does not actually show that we can voluntarily oppress ourselves. She argues that at best it *appears* that we have made a voluntary choice in cases that our decisions leave us in oppressive situations. There is actually institutional coercion involved. See *Oppression by Choice*, p. 35-41.

where we make choices that are expected of us, or that we *encouraged* to make.⁶⁶ Cudd agrees; “the oppressed are co-opted through their own short-run rational choices to reinforce the long-run oppression of their social group.”⁶⁷ Imagine a young woman who does not accept the scholarship from a prestigious university in order to stay home and attend a junior college because “good girls stay home until they get married.”⁶⁸ If asked, she would perhaps say that she chose to stay home because she *wanted* to be close to her family. There does not seem to be any coercion involved here, but if she had the opportunity for authentic choice, it would be very likely that she would choose to accept the award. These kinds of situations can nevertheless be identified as injustice on the basis of how oppression results from unjust constraints that do not constitute coercion as we have defined it here. Coercion for Cudd is the absence of voluntary choice. From the appearance of it, she seems to have voluntarily chosen to stay home, and again, if asked, she would claim to have made the decision voluntarily. I argue that her situation is, at least, potentially oppressive, although it was not coercive.

Another way that my theory differs from Cudd’s is that my theory includes the systematicity criterion. That is, for a group to be oppressed, there are many interconnected factors involved to keep them down. Although, I make this point explicit, it is implicit in Cudd’s group membership criterion. Frye gives us an

⁶⁶ Nussbaum, *Women and Human Development*, p. 136-137. Cudd refers to adaptive preferences as “deformed desires” (*Analyzing Oppression*, p. 180).

⁶⁷ Cudd, *Analyzing Oppression*, p. 22.

⁶⁸ Teaching at a Hispanic-serving institution, I have heard this many times. Some young women do not believe that they should go to college, especially if that makes them unable to take care of their siblings or their own children, or if they do go to college, they do not believe that they should go away from home.

interesting analogy to illustrate the systematicity criterion. She asks us to imagine a birdcage in which the arrangements of its wires keep the bird trapped inside. The wires do not seem to be related as a structured whole to cage the bird. The “cageness of the birdcage is a macroscopic phenomenon”⁶⁹ as are the lives of the oppressed people. If we look at the birdcage at the microscopic level, we see only one wire and will not know how these tiny wires can keep the bird in, but once we step back and look through a wider lens, it will be clear how this one wire is intertwined with all the others to do so. It is “a network of forces and barriers which are systematically related and which conspire to the immobilization, reduction and molding of women [as well as other oppressed groups] and the lives we live.”⁷⁰ The bird is physically closed in by the wires that are analogous to the forces we find in the world of oppression.

We can see that there are many forces that are arranged in such a way to insure the inferior status of the oppressed group. For instance, young women are encouraged not to go out alone at night because they are women, but men are not so discouraged. As a matter of fact, the presence of young men, regardless of their age, makes it *safe* for any young girl or woman to be out at night. I recall that when I was a teen or younger, taking my brother who is four years younger assured people of my safety. The fact was that I was often put in a situation that I had a child and myself to take care of if something does go wrong. However, this attitude towards women implies that we cannot take care of ourselves.

Examples of such cases that systematically harm women, physically or

⁶⁹ Frye, *Oppression*, p. 86.

⁷⁰ *Ibid.*, p. 87.

emotionally, are endless. Women are often advised to be passive and not aggressive. A horrific effect of this advice appears clearly in Mary Koss's research on rape. Many of the rape victims that she interviewed said that they did not scream for help or try to physically hurt the perpetrator because they found it embarrassing (to them and to their rapist) to scream or physically attack their rapist.⁷¹ While aggression in women is often looked on as a vice, in men it is a virtue and sign of masculinity. Another common example is that in the workplace women are paid less than men for doing the same jobs. Unpaid maternity leave reduces household income at the time when a family needs it most and pressures the financially needy mother to go back to work soon after the birth of the child. On the other hand, we are criticized for leaving our children at the daycare, especially during the first year of their lives. Lack of adequate and affordable childcare facilities is also an issue that new mothers have to deal with, and it often falls on the mothers' to-do list. At the end, if we fail to be all that our society encourages us to be, we fail as women. These are the wires that keep women in their oppressive situation. Oppression is systematic. There are many forces that work on keeping women (and minorities) from advancing and remaining in their disadvantaged situation, although from the perspective of those looking in from the outside, it seems like that they should be able to advance and improve their situation. After all there are no laws that keep them in their disadvantaged positions, and so if they do not succeed, it is no one's fault but their own.

My theory of oppression differs in two other ways. First, to side with caution

⁷¹ Robin Bradshaw, *I Never Called it Rape: The Ms. Report on Recognizing, Fighting and Surviving Date and Acquaintance Rape* (New York: Harper-Collins Publishers, 1988), p. 40.

towards those who are oppressed but our theory might not capture, I will hold that these criteria are jointly sufficient and not necessary. There might be cases of oppression that we do not know about. To say that these criteria are necessary would be limiting. My claim is, if X meets my criteria, it is oppression. The same kind of problem appears in Young's view on oppression. If someone points out a kind of oppression that is not caught by the five faces of oppression, does it mean that they are not oppressed because they do not fit any of Young's five faces of oppression? I think not. There has to be room for future growth. So, at least we should take epistemic caution and not set necessary criteria of oppression.

Second, Cudd's theory lacks the required metaphysics for why oppression is an injustice.⁷² The metaphysics that I will propose uses Nussbaum and Sen's capabilities approach for a basis for rights in order to provide us with a metaphysics for oppression. This background could apply to all theories of oppression. Therefore, the capabilities approach also gives a basis for why resilient autonomy is important and why its lack is associated with oppression. According to both Nussbaum and Sen, capabilities are necessary for flourishing human life. To take these away is a harm / injustice.⁷³ Some of these are necessary and are the basis for other capabilities and they ought to never be taken away because the others cannot flourish without them. I will elaborate on the capabilities approach in the next chapter.

I will end this section by illustrating my theory with an example. Mexican-

⁷² This lack is not a flaw in her view. Her work is part of a larger dialogue, and literature on oppression.

⁷³ Unlike Cudd's conception of harm, in my view harm is normative. I believe that harm is violation of one's capabilities, which are also basis for rights. I will explore capabilities in the next chapter.

Americans are kept in the lower status in our society, mainly because they are Mexicans. They are “used” for cheap labor. They do the majority of our hard labor and dirty work so our children or we, won’t have to do it. Many of the field workers are illegal immigrants who do not have the rights that legal immigrants enjoy, and because of this (and often lack of communication abilities with their bosses) they are often exploited. They are not paid minimum wage and are forced to work under harsh conditions. These workers are paid low wages (harm), because they are Mexicans (group membership), so the landowners who are the wealthy and all of us who buy those goods can benefit (the privilege group). They are not only harmed in this one particular way. If mistreated, beaten, or raped by their overseers they are not protected by law so they cannot report to the police – their illegal status will be revealed and they would be even worse off.⁷⁴ In some states like California the children of illegal immigrants are unable to go to school or daycare because these institutions will not receive government funding for allowing undocumented children to attend. Consequently, they are kept in their state of poverty. They often cannot go back to Mexico because there are no available jobs and they or their families will be even worse off. These are just a few examples of many forces that work against them and systematically keep Mexicans in a disadvantaged position and discriminated against.⁷⁵

⁷⁴ Even if the workers have legal working visas, they chance losing the opportunity for future work.

⁷⁵ This examples parallels Marilyn Frye’s birdcage example.

Coercion and Voluntary Actions

Coercion for Cudd is normative and the presence of coercion makes oppression wrong because coercion is always wrong. As Cudd agrees, coercion can be normative or not, just as harm can be and in my view harm is normative. I believe the presence of unjust harm, together with the other criteria of oppression is sufficient to make a situation oppressive. Most subtle cases of oppression do not involve coercion. Let us consider Cudd's Lisa and Larry's case to illustrate more subtle examples of oppression.

In her work, *Oppression by Choice*, Cudd has us consider Lisa and Larry's situation.⁷⁶ Lisa and Larry is a married couple who both hold jobs outside the house. They decide to have a child and want one of them to stay home to care for her/him. They consider their options and rationally decide that it is financially beneficial for them if Lisa stays home and Larry works. Men are paid more in our society and are more likely to get promotions and raises. So, for this reason alone they would be in a better financial situation in the future if Lisa stayed home. Even if they start out with the same salaries, they will not end their careers with same salaries. In Cudd's scenario, Lisa and Larry shared household chores when they both work. After she quit her job, more of the household chores fall on Lisa as well as taking care of their child. Larry, who has more financial burden and is the only financial provider is under more stress and believes that it is his right to not do as many chores when he gets home. This situation leaves Lisa in a less advantaged situation in comparison

⁷⁶ This example reappears in her book, *Analyzing Oppression*, p. 148-150.

with Larry, regardless of whether they stay married or not.⁷⁷ It is quite easy to think of benefits of working outside the house in a labor market that is valued and paid; Larry benefits from having a higher social status, socializes with people outside the house, has less housework, and spends far less time with his child, who by virtue of being a child is very demanding. Lisa's labor at home is not valued in the society and because she leaves the job market her labor loses value. So, she has made a rational, (according to Cudd, *apparently*) voluntary and informed decision that has left her in an oppressive situation. According to Cudd, Lisa is oppressed because her choice was coerced (not voluntary) due to the factors mentioned in the above scenario, although she seems to have voluntarily chosen to stay home and could have chosen otherwise than she did without any institutions keeping her from working.

The society is structured to advantage some groups over others. Surely she had the option of going to work instead of Larry but the outcomes were such that if she had, her family would be much worse off. They would have to dramatically change their living standards so she can remain employed and have Larry stay home to care for the child. This example works in cases of interracial (say Black and White) homosexual couples that adopt a child. As they decide which one should stay home to care for the child, they will have to consider that the Black partner (be it male or female) will make less money than the white partner and should perhaps stay home if they are to maintain their quality of life. In a totally egalitarian society the question of race or gender will not come into play as the partners decide who should stay home to

⁷⁷ Cudd, *Oppression by Choice*, p. 37, 38.

care for children. Even if we grant that there is no coercion involved and everyone acted voluntarily, our society is structured so that we rationally make decisions that leave us in oppressive situations. Lisa and Larry's situation is an example of this and surely Lisa is not alone; due to the choices that people have in our society, "women are coerced in making the choice to eschew economic power and status for domestic servitude.... This implies that women are oppressed by the vicious cycle phenomenon, and thus by means of their own individually rational choices."⁷⁸ Lisa actually has the tools to carefully consider the situation and has the options in order to make the best choice but many do not.

We can say two things about this case. First, Lisa's decision is not voluntary (coerced) because of the way that society is set up; if she stayed home, the family would be financially much worse off. Forces that discriminate in the work place against women coerce her. According to Thomas Mappes, "a person can ... be effectively coerced by being threatened with the withholding of something (in some cases, what we would call a 'benefit') to which the person is entitled."⁷⁹ In this case, Lisa is coerced into staying home because if Larry stays home, they will not benefit from the higher income that he will be earning and possibly that he currently earns. So, according to Mappes's definition and Cudd's analysis, Lisa did not choose voluntarily and is, therefore, oppressed.

Second, we can say that Lisa is not coerced and that people can (and

⁷⁸ Cudd, *Analyzing Oppression*, p. 151.

⁷⁹ Thomas A. Mappes, "Sexual Morality and the Concept of Using Another Person," in *Social Ethics: Morality and Social Policy*, 4th edition, edited by Thomas A. Mappes and Jane S. Zembaty (New York: McGraw-Hill Inc., 1992), p. 209-210.

sometime do) make voluntary decisions that leave them in oppressive situations.

Cudd brilliantly shows the former. The latter is what I will argue for here.

Oppression is best continued if the oppressed internalize the social expectations of them. By making choices that the oppressors want them to make, they continue their own oppression. The psychologically oppressed often come to believe that their choices were their own authentic choices and were freely made. Putting it differently, by having the appearance of choice, one may not *feel* coerced and so does not believe he or she is forced or coerced in making their decisions that she or he does make.

Feeling free from force or coercion is not always a good indication of freedom. According to Mappes, one way we can determine if our choices are coerced is to ask, “Does the proposal in question have the effect of making a person *worse off upon noncompliance?*... The person who makes a threat attempts to gain compliance by attaching an undesirable consequence to the alternative of noncompliance. This person attempts to *coerce* consent.”⁸⁰ The idea here is that if we are trying to avoid a bad consequence by consenting, then our consent is forced and morally questionable. Imagine a person who is told that she will have to undergo female genital mutilation or face starvation because in her society she is not allowed to work. She might oppose the practice but she *consents* to undergo it. This is coercion. She was forced to do something that if she disagreed would bring about horrible consequences. Consent obtained under conditions in which noncompliance results in the withholding of the

⁸⁰ Mappes, *Sexual Morality and the Concept of Using Another Person*, p. 209.

opportunity to exercise a basic human capability clearly makes the person worse off.⁸¹ The circumcised woman loses a capability to preserve another, namely she loses bodily integrity to preserve her life. That is morally alarming. In a just society, we must not be forced to choose between our bodily integrity and our life. I might consent to have my arm cut off if I know that is the only way to save my life. However, that is an unfortunate situation and one that I was coerced into because the alternative was even worse.⁸² Although cutting my arm to save my life is not a sign of oppression, the case of circumcised woman is because her case meets all other criteria of oppression. However, the threats that are used to get consent could be physical or mental. One can physically or mentally force someone to agree to his or her will. In summary, according to Cudd, an action is coercive if it is not a voluntary act. Mappes argues that a voluntary act is one that is not backed by any threat.⁸³ So, both Cudd and Mappes hold that lack of voluntary choice is coercion. See below;

⁸¹ I will discuss the capabilities approach in the next chapter.

⁸² Suppose I have to cut my arm off because of a horrible infection. That is not the case I am talking about here. However, if my arms are cut off so that I will lose the ability to be independent from my spouse, then that is oppression or at least a sign of it.

⁸³ Mappes, *Sexual Morality and the Concept of Using Another Person*, p. 209.

Cudd

$\sim \text{voluntary} \rightarrow \text{Coercion}$ $\sim V \rightarrow C$

Mappes

Threat \rightarrow coercion

1. $T \rightarrow C$

\sim Threat \rightarrow voluntary

2. $\sim T \rightarrow V$

3. $\sim V \rightarrow T$ Logically equivalent to 2

4. $\sim V \rightarrow C$ 1, 3 Hypothetical Syllogism,
(Cudd's)

5. $\sim C \rightarrow V$ Logically equivalent to 4

Cudd does not define voluntariness but Mappes does and his definition eventually entails Cudd's. I believe we have to find a way to separate these two concepts. There are times where there is no threat involved but the choice is still not a voluntary choice or that one is forced to choose from choice B or C because she is forbidden to choose A. For instance, person P is forbidden to attend school A.⁸⁴ However, she is allowed to attend schools B or C. She was not forced to choose one or the other. So, she chooses voluntarily between the two. Although she is forced to choose B or C, there was no threat involved when she chose either. However, she is under threat (be it emotional or physical) if she tries to attend school A. To define coercion as lack of voluntary choice is too broad. Here is why; we are faced with many obstacles. These obstacles necessarily force us to make a decision sometimes contrary to that we wish to make. We do not want to say that any action that is done under any shadow of force or coercion is involuntary. Anyone who lives in a capitalist society regardless of

⁸⁴ There is a similar example in Cudd's *Analyzing Oppression*, p. 127.

his or her status is coerced, and therefore, we can make a case that all workers in a capitalist society are oppressed. It is true that Lisa is oppressed. It is true that she was faced with a hard choice. However, her choice was a voluntary choice. She acted voluntarily although there might be bigger forces at work. We need a definition of voluntariness that accounts for cases of Lisa and Larry. Let me start with Aristotle's definition of voluntary actions.

According to Aristotle, actions are voluntary if they are not done out of ignorance and are not done by some force; "what is involuntary is what is forced or is caused by ignorance, what is voluntary seems to be what has its origin in the agent himself when he knows the particulars that the action consists in."⁸⁵ Particulars refer to the components of making decision – basically knowing who is doing, what, how, why and in what way. According to Aristotle there are six particulars and if we are ignorant of them our action is involuntary. In his words, the particulars are,

- (1) who is doing it;
- (2) what he is doing;
- (3) about what or to what he is doing it;
- (4) sometimes also what he is doing it with, e.g. the instrument;
- (5) for what result, e.g. safety;
- (6) in what way, e.g. gently or hard.

Of 1-6, Aristotle finds 2 and 5 the most important.⁸⁶ Ignorance of these two will mean that we do not know what we are doing or what the results of our actions are. By force, he means external force that is out of the agent's control; for example, when someone pushes you and you run into someone else. This is an example of force that

⁸⁵ Aristotle, *Nicomachean Ethics*, chapter III, 1111a10, translated by Terence Irwin (Indiana: Hackett Publishing Company, 1985), p. 58.

⁸⁶ *Ibid.*, p. 57-58.

was out of one's control.⁸⁷ *Prima Facie*, we can all grant this criterion of non-voluntariness, but his second criterion, being ignorant of the six particulars, is questionable.

There are many things that we are ignorant of when we make a decision. In response to Aristotle, one can act voluntarily even if one is ignorant of the particulars, although if some harm was done, one is not morally culpable for it. Recall the case of the Mad Doctor who fills the patient's medicine shot with cyanide. The Ignorant Nurse, as she has done for years, picks it up and administers the shot. The patient dies. The Nurse acted voluntarily when she gave the shot, although she had no intention of killing the patient and she is not responsible for his death because she was ignorant of the content of the shot. So, at best, we can say that she did not voluntarily kill the patient. However, if we take 1-6 seriously, then we have to conclude that the nurse's action was involuntarily done, but that is not the case. She voluntarily took a needle (assuming as she always has it was filled with needed medicine) and gave the shot to her patient. This was a voluntary act and killing the patient was not. Aristotle's view does not account for subtleties of cases as such.

In my view, actions are voluntarily done when there is no physical or mental force present. There are many cases where we make decisions when we are ignorant of 1-6. Consider a freshman that chooses History as her major and ends up becoming a successful Historian. She might not know of other majors that might interest her, what are the details of pursuing a graduate degree or what a career in History entails,

⁸⁷ *Ibid.*, p. 53.

as many of us did not when we chose our fields of studies. Although she is ignorant about her choices, I believe, she acted voluntarily. No one physically or mentally forced, coerced, or threatened her to major in History. Although this might not be an informed choice, she is not coerced, her choice is not involuntary and there would have been no bad consequences of choosing to study Philosophy or Math.

Coercion, on the other hand, involves active forces, such as social structure, laws, attitudes, or lack of social justice. This opposes Aristotle's view on force. He believes actions are not forced when done under "duress"⁸⁸ but in my view, it depends on the kind of pressure. Life pressures are certainly a determining factor in our decision-making process. Often we assume that as long as there are no physical forces involved, people are choosing freely to do as they wish, but there are many aspects to what makes something coercive or forced. One might argue that Lisa was forced to choose to stay home although there were no direct forces involved. According to Cudd, "Direct forces cause inequality through the intentional actions of a dominant group on a subordinate group."⁸⁹ Direct forces are all socially imposed and the individual is not at all responsible for them. For instance, Lisa's society does not forbid her from working after she becomes a parent, as was the case in the 1930's. On the other hand, there are indirect forces that mold the oppressed in more subtle ways that Aristotle is not considering here. "Indirect forces cause inequality through the choices and decisions of the members of the oppressed group themselves, as they

⁸⁸ Ibid., p. 54.

⁸⁹ Cudd, *Analyzing Oppression*, p. 135. See also pages 136-146 for examples and a more in depth discussion of direct forces.

try to live in the face of other inequalities and injustices.”⁹⁰ These are the internalization of the expectations of one’s society where “the oppressed seem to shape their preferences to embrace the feasible set of options they are faced with.”⁹¹ These kinds of forces are not so obvious nor can they be immediately stopped. We are all socialized into our roles and these roles are the forces that often direct our decision-making. Contra Aristotle, we have to recognize that there are many instances of force that are not obvious. Given that, we can still make voluntary decisions under the shadow of these forces and we often do. Perhaps there is a fine line between actions that are involuntary and ones that are coerced. Particular actions might be voluntary although the social, cultural, or family structure might be psychologically coercive.⁹²

More on Psychological Oppression

Members of oppressed groups may internalize various forms of systematic, institutionalized social and political oppression. The oppressed internalize political and social expectations in different ways, and become their own oppressors. As I pointed out, Bartky calls this sort of oppression psychological oppression. There are different categories of psychological oppression — stereotyping, sexual objectification, and alienation, among others.⁹³ Alienation happens when people are separated from basic characteristics that make important contributions to their

⁹⁰ Ibid., p. 135.

⁹¹ Ibid., p. 153.

⁹² This is an example of psychological oppression. Although these kinds of decision can be made voluntarily in particular actions, using Aristotle’s criteria, one’s actions can be coerced.

⁹³ Bartky, *On Psychological Oppression*, p. 23.

development as human beings. For example, Mexicans are categorized and treated in ways that leaves them self-alienated and that ignore their needs as human beings—as ends with dignity and worth and not merely “janitors and farm workers.”

Objectification occurs when an individual’s body parts are distinguished from the rest of her personality and are treated as though they entirely define her personhood or are the most important features of her personhood.⁹⁴ Stereotypes often portray many men and women of color as irrational, stupid, and childlike. Women are “more intuitive than rational, more spontaneous than deliberate, close to nature, and less capable of substantial cultural accomplishment.”⁹⁵ Often stereotypes will lead to the sort of attitudes that are expected of the stereotyped whether they are good or bad. Those stereotyped to be childlike and incapable of making decisions internalize that stereotype as a part of them and thereby become their own oppressors.⁹⁶ This is a very simple, non-controversial issue for those who have ever been around children. We are taught not to tell children that they are ‘bad’ but rather criticize their actions, so that they would not self-stereotype as somehow deficient, and act accordingly.

I believe the guest-worker program in the United States objectifies the guest workers and would not work to their benefit. The workers are only seen as workers and not people who will develop lives here. Under the guest-worker program, or ones similar to it, after their terms are up, these workers and their families are eventually ripped out of the lives they have established here and have to go back. They are being

⁹⁴ Ibid., 129-130. I have modified this definition from her definition of sexual objectification.

⁹⁵ Ibid., p. 128.

⁹⁶ More on stereotyping in chapter six.

used for our benefit. As long as they do the hard work we do not want to do, we won't have to pay them as much, and so the price of goods remains low, more benefit for us. Perhaps each person is only a worker in a capitalist economy. However, our situation is rewarded by rights and privileges that we have as citizens, which the guest-workers will not enjoy. For instance, they will not have the right to vote, receive social security when they reach retirement age, or have their children raised in the environment that they are brought up in. They will always be second-class citizens.⁹⁷ They might internalize this view of themselves and self-identify with the boundaries set for them by the society. Even if they are given amnesty after so many years, they have already lived as a second-class citizen and it is very unlikely that the standards of living for them will significantly change. They have been 'broken in' for their inferior position in the society. A statement from a Mexican-American faculty member from the University of Texas-Pan American makes this very clear. Professor X said in a panel, that her father, who is a janitor, suggested that she should become a secretary when she graduated from High School. He thought he was giving her great advice; she would work in a clean environment, air-conditioned room, "and that is a great job for a Mexican-American woman."⁹⁸ I believe this is a great example of internalization of social expectation of inferiority, hence, psychological oppression. Professor X holds a Ph.D. but if she had taken her father's advice, she would, at best, be a secretary. That would be a great example of people limiting themselves because

⁹⁷ For a comprehensive study on the Guest worker program see, Bauer, Mary. *Close to Slavery: Guestworker Programs in the United States*, edited by Booth Gunter, a report by the Southern Poverty Law Center, 2007.

⁹⁸ Stated by Professor X, from the University of Texas – Pam American, 2006. The speaker requested that her identity not be revealed.

that is what they (or their parents) believe they can do. They do not develop their capabilities because they have internalized the expectation of inferiority. I hold that any practice that systematically and unjustifiably limits people's development of their capabilities, deprives them of the benefits routinely enjoyed by others, or assigns them to inferior status due to their group membership, by force or otherwise, is oppressive. Oppression is not always obvious; it often requires close analysis and careful observation of the society's treatment of its people. When a group is politically or economically held down, often the members of that group internalize the social expectation of them (the oppressor's expectations) and become their own oppressors.

In Summary

I agree with Cudd and Zutlevics that there is one theory of oppression. Zutlevics's theory is too broad and does not give a metaphysics for why she believes that resilient autonomy is important. It, also, does not distinguish between cases such as crime, accidents, or oppression. It is crucial that we distinguish between these because the solutions to each of these cases differ. My theory closely parallels Cudd's. In my view an act is oppressive if it meets the following criteria; One, there is some kind of harm done – one's capabilities are unjustly taken away, thwarted or destroyed. Two, the harm is done based on group membership. Three, another group benefits from it. And lastly, four, the oppression is systematic. In short, oppression is to have one's capabilities systematically thwarted or taken away (harm) because of

one's group membership, in order to benefit another group, whether the harm is voluntarily done or not. My theory of oppression picks out as many cases of oppression as Cudd's. If we take Ockham's razor seriously, we should seriously consider my revisions because it gives our theory fewer parts and explains at least as much as Cudd's theory. If we can capture all oppressive situations without introducing coercion, we should do so because coercion introduces a whole new debate.

Three

The Capabilities Approach

In this chapter I will outline Martha Nussbaum's capabilities approach. I use capabilities as grounds for (metaphysics of) my theory of oppression. This is the main contribution I am making to Cudd's view and to the literature on oppression as well as rights. One criterion of oppression is *harm*. Harm, in my theory, is unjustified violation of one's capabilities, which are the bases for rights. In addition to summarizing Nussbaum's view, I will also consider some criticisms against this approach and respond to them.

Capabilities are things that people are "actually able to do and to be."⁹⁹ The basic idea of capabilities approach is that there are certain human capabilities that ought not be destroyed, undermined or deterred. These certain capabilities are those that do not violate the liberty principle. According to the liberty principle, people are free to act as long as they do not violate others' freedom. So, although we have the capability to commit atrocities we should not be able to develop them. This hindrance does not count as unjustified harm. In Nussbaum's words,

Not all actual human abilities exert a moral claim, only the ones that have been evaluated as valuable from an ethical viewpoint. (The capacity for cruelty, for example, does not figure on the list.) Thus, the argument begins from ethical premises and derives ethical conclusions from these alone, not from any further metaphysical premises.¹⁰⁰

Nussbaum provides a list of capabilities that she believes will stand the best chance of

⁹⁹ Nussbaum, *Women and Human Development*, p. 5.

¹⁰⁰ *Ibid.*, p. 83.

universal consensus. I will start with her list and then explore the ethical role these capabilities play. Some of the capabilities listed are very important while others are necessary preconditions for a flourishing life.

The first three capabilities in the list are the most fundamental and without these others cannot be actualized. They are, (1-3), Life, Bodily Health, and Bodily Integrity. From these capabilities we can derive the right to live a healthy, well-nourished life, one that is not prematurely ended, as well as having the right to reproductive health, freedom to move around free from physical and sexual violence and enjoying sensual and sexual satisfaction.¹⁰¹ For instance, one who is raped, or is forced into an arranged marriage has her capability of *Bodily Integrity* violated.

(4, 6) are Senses, Imagination and Thought, and Practical Reason. These capabilities allow individuals to become informed and provide the opportunity to develop one's abilities for deciding one's comprehensive conception of the good and plan one's life, including education, religion, and artistic expressions.¹⁰² These include one's ability to make critical decisions about one's life. According to Nussbaum, practical reason is one of the two most important capabilities because the use of practical reason makes each person an agent who makes autonomous choices and determines his or her own path of life instead of being herded as a "cog in a machine."¹⁰³ Governments that do not allow freedom of religion or have a state-mandated religion violate the capability of *Thought* and *Practical Reason*. Under

¹⁰¹ Ibid., p. 78.

¹⁰² Ibid., p. 78, 79.

¹⁰³ Ibid., p. 82.

those governments we are deterred from developing our own conception of the good.

(5, 7-10) are Emotions, Affiliation, Other Species, Play, and Control over one's Political and Material Environment.¹⁰⁴ These are capabilities that we use in the social aspects of life. They include the personal and social freedoms and opportunities as well as authority over one's life prospects. These capabilities include freedom to develop friendships and other attachments, to express one's emotions and joys, as well as making political and economic associations and projects. The capability of affiliation, along side practical reason, is of special importance for Nussbaum for the same reasons mentioned above. At first glance, some of these capabilities listed might seem trivial or of less value than those mentioned earlier but undermining them could be life-threatening. Under the government of the Islamic Republic of Iran or the Taliban, being joyful in public, smiling in government issued photographs, or any display of play and happiness by teens and adults is stigmatized and often punished. This violates the capability of *Play*, and *Emotions*. Youth suicide-rate, alcoholism and drug use in these societies is skyrocketing. Being joyful and having the capability to play is crucial in one's quality of life. One cannot have a flourishing life if joy and happiness and playfulness are missing. So, these capabilities are not trivial.

Nussbaum's list of capabilities is a list of many ways that people can potentially function in order to gain a truly human life. I refer to this list of capabilities given by Nussbaum as "capabilities" but there might be relevant capabilities that Nussbaum does not name or that she is unaware of. Those I refer to

¹⁰⁴ Ibid., p. 78-80.

as, *potential ways of functioning*. The distinction is merely between those capabilities Nussbaum identifies and additional others which might be there but are absent from her list. These freedoms and opportunities must be constitutionally guaranteed for each individual person (rather than an aggregate of people). Nussbaum proposes these capabilities "as a foundation for basic political principles that should underwrite constitutional guarantees."¹⁰⁵

She gives us two reasons for her list of capabilities. First, this list is intuitive. That is, a thriving and flourishing life will include these capabilities and the opportunity for their development. She adds,

The intuitive idea behind the approach is twofold: first, that certain functions are particularly central in human life, in the sense that their presence or absence is typically understood to be a mark of the presence or absence of human life; and second, that there is something that it is to do these functions in a truly human way, not merely an animal [non-human] way.¹⁰⁶

By *truly human*, Nussbaum refers to a life that is "*worthy* of a human being."¹⁰⁷ The reason that Nussbaum puts the individual in the center of her theory is that her view of individuals is Kantian; each person is an end with full value and dignity each person possesses. The human intrinsic value is not in virtue of being a part of a whole, as in the case of utilitarian evaluation. So, when we look to see if people have their basic rights (capabilities) met, we do not look at the aggregate good or gross national product. We look to see if each individual (not a group) has the opportunity for developing her capabilities.

¹⁰⁵ Ibid., p. 70-71.

¹⁰⁶ Ibid., p. 71-72.

¹⁰⁷ Ibid., p. 73.

The second argument Nussbaum gives for choosing these capabilities is that there is, using John Rawls's terms, strong probability that they would come out of an *overlapping consensus* among members of different cultures. Certain lack of liberties and goods are considered bad regardless of what metaphysical view of the world we hold.¹⁰⁸ As mentioned, there are other capabilities that we could consider adding to the list, but these are the ones that stand a good chance of cross-cultural consensus regardless of different cultural beliefs.¹⁰⁹ Nussbaum explains,

By 'overlapping consensus' I mean what John Rawls means: that people may sign on to this conception as the freestanding moral core of a political conception, without accepting any particular metaphysical view of the world, any particular comprehensive ethical or religious view, or even any particular view of the person or human nature.¹¹⁰

The overlapping consensus proposed by Nussbaum is a continuation of what John Rawls calls an "overlapping consensus of reasonable comprehensive doctrines."¹¹¹

A reasonable comprehensive doctrine has many parts. First, people will have to be reasonable. Reasonable persons are those who aim in making proper use of their political power. It is proper in the sense that we can reasonably believe that others will agree with the political principles that we propose. Surely, we cannot reasonably believe that all people will agree with the law (written or unwritten) that women

¹⁰⁸ Ibid., p. 74.

¹⁰⁹ I should add that although some cultures would deny women some of these capabilities, they would agree that people ought to have them and a life that has these capabilities is better than one without them.

¹¹⁰ Nussbaum, *Women and Human Development*, p. 76.

¹¹¹ John Rawls, *The Law of Peoples: The Idea of Public Reason Revisited* (Massachusetts: Harvard University Press, 2000), p. 172.

should make 80 cents for every dollar that men make for doing the same job. So proposing such a law, according to Rawls, is not reasonable;

Our exercise of political power is proper only when we sincerely believe that the reasons we would offer for our political actions — were we to state them as government officials — are sufficient, and we also reasonably think that other citizens might also reasonably accept those reasons.¹¹²

According to Rawls, the sincere belief that other citizens will probably accept our principles is one criterion of reciprocity and reasonable people aim to satisfy it. A reasonable person will agree that men and women ought to be paid the same wages for the same jobs. So, paying women less than men for doing the same job would not meet the criterion of reciprocity because we could not reasonably and sincerely suppose that paying women less than men for the same job is acceptable to women.¹¹³ This double standard is not a part of a reasonable overlapping consensus of comprehensive doctrines.

The second criterion for reasonable overlapping consensus of comprehensive doctrines is "the willingness to recognize the burdens of judgment and to accept their consequences."¹¹⁴ There will be times that reasonable and rational people, contrary to Kant's universalism, will not agree with one another regardless of their commitment to gain consensus. So, we agree to disagree and accept the consequences, because it is sometimes impossible to come to rational agreement about difficult moral

¹¹² Ibid., p. 137.

¹¹³ Or if it is acceptable, it is a sign of psychological oppression. That is, women have accepted their inferior status in the society.

¹¹⁴ John Rawls, *Political Liberalism* (New York: Columbia University Press, 1993), p. 49.

situations.¹¹⁵ Discussion among reasonable people in a liberal democratic society would inevitably lead to disagreements. People may disagree about their comprehensive conceptions but citizens must learn to accept this disagreement as part of a liberal democratic society. Those who reject the criterion of reciprocity are not reasonable.¹¹⁶ Rawls says,

[R]easonable doctrines affirm such a society with its corresponding political institutions: equal basic human rights and liberties for all citizens, including liberty of conscience and the freedom of religion. On the other hand, comprehensive doctrines that cannot support such a democratic society are not reasonable.¹¹⁷

Nussbaum captures these liberties and freedoms, as well as many more, with her list of capabilities.

In summary, intuitively and through the idea of an overlapping consensus of reasonable comprehensive conceptions on what makes for a flourishing human life, Nussbaum justifies her list of capabilities. In order to have a fully good human life individuals should have the opportunity to develop each of these capabilities – i.e. each person must have the opportunity to go beyond the threshold of making these capabilities a part of one's life. The protection and promotion of capabilities should be a part of what justice requires.¹¹⁸

So we must ask what each person is capable of doing in a society when considering a society's level of justice, and not merely what one is happy with or *thinks* what one is entitled to. A theory that only attends to the mere feeling of being

¹¹⁵ Rawls, *Political Liberalism*, p. 56.

¹¹⁶ Rawls, *The Law of Peoples*, p. 59.

¹¹⁷ *Ibid.*, p. 172-173.

¹¹⁸ Nussbaum, *Women and Human Development*, p. 74.

happy is “subjective welfarism, the idea that each person’s *perceived* well-being should be the basis for social choice.”¹¹⁹ This appeal to perceived wellbeing is not adequate, because our society, economic status, social class, etc often shape our preferences. So, we might believe that our needs are met while in reality they are not.¹²⁰

Also, according to the capabilities approach “we ask not just about the resources that are sitting around, but about how those do or do not go to work, enabling ... [individuals] to function in a fully human way.”¹²¹ The mere possession of political rights is not enough to give one opportunities to develop one’s capabilities. One must be informed of the political rights. If I do not know that I have the right to bodily integrity, then I do not know that I can exercise my right in case if that capability is violated. An example is the status of women in India. Indian constitution grants women much more rights that women actually have the opportunity to pursue. This is, among other things, due to the women’s ignorance of these laws.¹²²

In assessing the level of social justice in a society, we do not want to look at a total sum, such as the Gross National Product, as utilitarianism or subjective welfarism do, or at an average per capita amount, as average utilitarianism does. Each individual’s actual, not merely perceived, wellbeing ought to be considered. Each

¹¹⁹ Ibid., p. 8. Emphasis added.

¹²⁰ Nussbaum adds, “Recognizing the phenomenon of adaptive preference-formation does not entail an unacceptable type of paternalism, if this recognition is combined with a version of political liberalism and a focus on capabilities (not actual functioning) as political goals.” (Nussbaum, *Women and Human Development*, p. 8).

¹²¹ Ibid., p. 71.

¹²² Ibid., p. 24-26.

person is an end in herself or himself and ought not be considered as merely a contribution to the whole or as the very best judge of their own situation.

Amartya Sen, the first to develop and discuss the capabilities approach, also rules out the utilitarian approach to assess the level of justice and distribution of the goods in a society. He argues that utilitarianism “rules out that anything other than consequences can ultimately matter”¹²³ and that “the utilitarian calculus tends to ignore inequalities in the distribution of happiness (only the sum total matters-no matter how unequally distributed).”¹²⁴ Further, he criticizes utilitarianism in that it does not consider human rights, capabilities, freedom, etc. All this theory is concerned with is the aggregate good, or at best the average value of happiness for each person given the aggregate good. Neither gives us any information on how the *individuals* are doing.¹²⁵ I believe these long standing objections to utilitarianism are persuasive, and that utilitarians have never adequately dealt with them.

In contrast, the capabilities approach on entitlement to goods and opportunities insures each individual the opportunity to choose his or her own conception of the good and decide which capabilities they will develop.¹²⁶ Consequently, not everyone will develop each of his or her capabilities but the *opportunity* to develop them ought to be provided for all individuals. The lack of such

¹²³ Amartya Sen, *Development as Freedom* (New York: Anchor Books, 2000), p. 59.

¹²⁴ *Ibid.*, p. 62.

¹²⁵ *Ibid.*, p. 62. As we will see later, the capabilities approach allows for the different treatment of each person to get him or her to the threshold of functioning. So, even if we take the average utility for each person, it does not show that we can achieve equality in the society. Equality might require us to have unequal treatment of individuals. Utilitarianism does not account for that either, unless it leads to greater utility.

¹²⁶ Nussbaum, *Women and Human Development*, p. 78-80.

opportunity is an indication of social injustice. Some people choose not to develop some capabilities. The capability of *Bodily Integrity* includes the opportunity for sexual satisfaction through sexual relations. A nun could choose not to be sexually active although she has the capability to do so. On the other hand, a woman who has undergone female genital mutilation no longer has the capability to enjoy sexual satisfaction. She cannot choose to develop this capability to the fullest because she does not have the necessary bodily parts. Although the outcome may be the same in these two situations, the former is her choice but the latter by force. The difference is that the latter destroys a capability and the former chooses not to develop it. Because it is always suspect when one's body is mutilated such as in cases of female genital mutilation, foot-binding, breast ironing¹²⁷, etc., it is prudent to question those practices and find their destruction a moral offense.¹²⁸ As discussed in the last chapter, the victims of psychological oppression often internalize the oppressors' expectations of them. We have to keep in mind these cases as we wonder if one should respect X's choice to undergo FGM, or other harmful, capability-destroying procedures.

I should note that in the United States, as well as in most capitalist societies, the opportunities to develop our capabilities are often income-based. For instance, many children of the poor Mexican-Americans living in South Texas do not believe

¹²⁷ Betty Murungi and Nicholas Asego Nairobi, "Kenya: 'Breast Ironing' in Cameroon," in *The East African Standard*, May 28th, 2007, <http://allafrica.com/stories/200705280394.html?viewall=1>.

¹²⁸ Some argue if a person *freely* chooses to undergo FGM, then this is a voluntary action and so not a sign of oppression. In chapter one, I argue that we could voluntarily choose to be victims of oppression. When our actions lead to destroying our capabilities, and other criteria of oppression are present, it is oppression whether or not it was voluntarily chosen.

that they have the opportunity to improve their lives beyond the lower-class status of their families' lives.¹²⁹ To some extent they are right. The society is structured so that not everyone has the same opportunities to develop their capabilities and live according to their conception of the good. This is why, again, I do not approve of looking at GNP or the aggregate good (utility) to decide whether a government has secured the means necessary for development of capabilities for its citizens.¹³⁰

According to Nussbaum, the destruction of a basic human capability ought not be traded for social gains, on either the society wide level or in one's personal life. Basic capabilities are from a different category as social gains and are radically different in nature. For example, we ought not be forced to compromise our capability of *Bodily Integrity*, in order to get a job promotion. Although we often make trade offs, that is a sign of injustice. Women who are forced to stay home and only care for children do not have the opportunity to develop those capabilities that relate to one's public life. Suppose a woman who "willingly" gives up her public life in order to live in a marriage so that her basic needs are met. She is cut off from her society, friends, other people, and most likely, from playing. Recall Bartky's definition of oppression; "being cut off from the sorts of activities that define what it is to be human."¹³¹ These women are systematically and unjustly cut off from what it is to be fully human, namely their capability to be involved in the public realm and have economic freedom. Some do not have the resources to change their lives, be it education, job

¹²⁹ This has been told to me over and over by my students at the University of Texas – Pan American, in South Texas.

¹³⁰ Nussbaum, *Women and Human Development*, p. 6.

¹³¹ Bartky, *On Psychological Oppression*, p. 31.

skills, self-confidence, etc.

Nussbaum insists, "The central capabilities are not just instrumental to further pursuits: they are held to have value in themselves, in making the life that includes them fully human."¹³² If one must trade a social good in order to have safety, food, or good health (basic capabilities), then there are good indications that situation is oppressive. A student was bothered that her life-long friend had recently married and was no longer allowed to take part in the world outside the four walls of her house. She has no car, her husband does not give her access to the television when he is away from home, and she is not allowed to talk on the phone. He regularly checks on her and will not allow her to associate with other people in any form, including going to the grocery store without him because there were men there. She has accepted this as a good thing because he takes "good care of her". She has voluntarily given up her social capabilities in order to have her basic capabilities actualized. Given her level of education, job experience, and her young age, she sees no other options in her life but finding a man and marrying one who is willing to take care of her basic needs (food, shelter, and safety). Her spouse might take care of her basic needs but she had to trade off all the social aspect of her life for it. This young woman's life might be less threatening than being poor (or possibly starvation), but if one must compromise playing, affiliation or other social goods (capabilities) in order to gain other basic capabilities, there is reason for us to be alarmed. That is a sign of oppression. It is arguable whether she did not freely choose not to develop them. In some scenarios, to

¹³² Nussbaum, *Women and Human Development*, p. 74.

develop those capabilities would mean that she might have to choose life or death. I am also willing to give up my arm to save my life and it does not follow that losing my arm was a good thing, nor does it follow that my choice was not coerced. The government has failed to secure the development of basic capabilities for her so she can develop her other capabilities that make her a human being with full worth, dignity and a potential for a flourishing life.¹³³

In sum, no one should be unjustly harmed, although there might be disagreement on what constitutes harm and justice. I hold that “harm” is unjustified violation of capabilities. I agree with Nussbaum that basic human capabilities are necessary for flourishing human life. Once the opportunity to develop these capabilities is taken away from a person then she or he would not have the potential for a good life as she or he did before. For example, if my capability of *Play* is taken away from me, then a huge reward in my life is taken away. Lack of joy and play has been connected to many psychological disorders, which we can agree take away from living a flourishing life.¹³⁴ To assure that each citizen has potential for a flourishing life, the State must adopt a constitution that does not allow the violation of these *basic human functioning capabilities*.

Amartya Sen and Martha Nussbaum

Sen and Nussbaum have each developed a theory of distributive justice based

¹³³ I should note that not all responsibility falls on the government. Families, the way that society is set up and is continued (intentionally or unintentionally), etc., are also factors that keep people in their oppressed situation. However, the social institutions can do far more than they are doing to challenge the status quo, but they do not.

¹³⁴ For instance those who suffer from chronic depression are unable to enjoy life to the fullest extent.

on capabilities. Although their approaches are similar there are differences in their articulations of this approach. A comparison helps illuminate Nussbaum's view. First, both agree that there is a place that qualities of life in the form of capabilities can be compared, but Nussbaum gives us a threshold that each individual should reach whereas Sen does not address this issue and leaves his theory open.

Second, both endorse the Rawlsian view on political liberty. These liberties are addressed in Nussbaum's articulation of the theory in the form of her list, although Sen does not give us such a list.

Third, both put the individual at the center of the capabilities wheel. To decide whether we have justice, we ought to look at individuals' capabilities and not GNP, aggregate utility, etc.

Forth, although neither is a cultural relativist, Nussbaum gives explicit argument against this view and in defense of universal values.¹³⁵

Fifth, Sen does not "ground the capabilities approach in Marxian/Aristotelian idea of truly human functioning" as does Nussbaum.¹³⁶ He explicitly rejects Aristotle's and grounds his theory on standard of living. According to Aristotle, the standards of living is *eudaimonia* and that involves having "a basket of multiple attributes."¹³⁷ Sen, on the other hand, sees the standard of living as "a choice over *alternative* baskets (each basket may have only one item *or* many)."¹³⁸ Nussbaum's

¹³⁵ See Nussbaum's *Women and Human Development*, Section II, *Three arguments: Culture, Diversity, Paternalism*, p. 41-51.

¹³⁶ *Ibid.*, p. 12.

¹³⁷ Amartya Sen. *The Standard of Living: The Tanner Lectures 1985*, edited by Geoffrey Hawthorn (Cambridge: Cambridge, 1987), p. 2. *Italic* is mine.

¹³⁸ *Ibid.*, p. 3. *Italic* is original.

list would also account for having *different baskets*. However, the way Nussbaum articulates her view gives everyone the same capabilities but some might just develop one.

Sixth, Nussbaum divides up the capabilities to three kinds, basic, internal, and combined. Sen does not make such distinctions. Basic capabilities are,

[those] innate equipment of individuals that is necessary basis for developing the more advanced capabilities, and a ground of moral concern... the capability of seeing and hearing is usually like this.... *Internal capabilities* [are] developed states of the person herself that are, so far as the person is concerned, sufficient condition for the exercise of the requisite functions. [For example a girl who has not been genitally mutilated has the internal capabilities for sexual pleasure. Finally the combined capabilities are] internal capabilities *combined with* suitable external conditions for the exercise of the function. A woman who is not mutilated but who has been widowed as a child and is forbidden to make another marriage has the internal but not the combined capability for sexual expression...¹³⁹

Lastly, Sen makes a “distinction between well-being and agency, which, together with the distinction between freedom and achievement, structure much of his recent writing about capabilities.”¹⁴⁰ This discussion is missing in Nussbaum because she believes that her theory can account for these distinctions while not requiring them.

Objections to the Capabilities Approach

While this is not the place for a thorough discussion of the capabilities approach, a review of certain basic objections to the capabilities approach is worth

¹³⁹ Nussbaum, *Women and Human Development*, p. 84-85.

¹⁴⁰ *Ibid.*, p. 14.

doing. It clarifies the approach and demonstrates its flexibility and resilience.

Peter Vallentyne

Nussbaum argues that all States ought to guarantee these capabilities in their laws. Some of these capabilities that she calls *basic capabilities*, ought to come to the threshold of functioning. Others are to be left at the threshold of functioning to people to decide which to develop. Peter Vallentyne argues that the capabilities approach, at best, is nothing beyond well-being theory. He adds that *all* capabilities ought to reach the level of functioning because if we are after a good life for individuals, a life that has all functioning is a better life than one that merely has opportunities for functioning. We do not have a way to rate the value of capabilities and therefore, it is “arbitrary to exclude some functioning that contribute to such value [be it good life or other things].”¹⁴¹

There are two things to be said here. First, Vallentyne ignores the role of autonomy. I might have a better life if I know how to sing well but I decide not to develop this capability. I also want it to be there if in the future I decide to do so. However, I do not want to be forced to bring that capability to functioning. That would be a violation of my autonomy. So, to say that we ought to be concerned with the level of functioning for all capabilities as Vallentyne does, I would be forced to develop capabilities to the level of functioning against my will. This undermines a good life. Second, we are not *arbitrarily* picking from the capabilities to get them to

¹⁴¹ Peter Vallentyne, “Debate: Capabilities Versus Opportunities for Well-Being,” in *Journal of Political Philosophy*, vol. 13, no. 3, 2005, p. 362, 363.

functioning level rather, Nussbaum argues, the basic capabilities are necessary for the development of the others without which others cannot be developed. Because of the two responses above, Vallentyne's argument, that capabilities approach and well-being approach are equivalent, does not hold. Here is his argument:¹⁴²

Premise one (P1): Capabilities are opportunities to function.

Premise two: (P2): "No functionings are irrelevant to justice (justice is not concerned solely with basic capabilities.)"

Premise three (P3): "Opportunities are to be understood as effective freedoms and not merely as control freedom."

Premise four (P4): "[T]he opportunity for well-being approach is committed to evaluating opportunities on the basis of their contribution to *well being* (quality of life...)." As does capabilities approach p1-p3.

Conclusion (C): Capabilities approach and well-being approaches are equivalent.

Let us consider this argument.

P1. Capabilities are opportunities to function.

Response: This statement is unclear. Capabilities are not "opportunities" but rather they are ways that we can be. I might have the capability of political affiliation but not the opportunity to get it to the functioning level.¹⁴³ So, it is false (at least, unclear) to say that capabilities are "opportunities to function." They are ways of being that we should *have* the opportunity to bring them to the functioning capabilities.

¹⁴² Ibid., p. 368.

¹⁴³ That is I might have the right to vote but cannot walk to a voting station to vote. Capabilities are so that we can actually practice them and not merely have the possibility of developing them.

P2. “No functionings are irrelevant to justice (justice is not concerned solely with basic capabilities.)”

Response: I discussed this point above. This premise is false. Justice is certainly concerned with all capabilities but not with their functioning because not everyone desires to fulfill all their capabilities. To force people to do so, is violation of their autonomy and grounds for questioning.

P3. “Opportunities are to be understood as effective freedoms and not merely as control freedom.”

Note: “Effective freedom to function includes all possible functioning independently of whether one’s will plays any role in bring them about....Control freedom to function is based on those possible functionings that one can bring about, or at least sufficiently influence the probability of coming about, through the appropriate of one’s will.”¹⁴⁴ That is, to have effective freedom regardless of what I desire, there are people who ought to provide for me. However, control freedom refers to freedoms that I can bring about things that I desire. Under effective freedom, Vallentyne gives us the example of a person who is in coma. She has a will to eat but cannot. Although she might have the will, she does not have the control to feed herself. So if others feed her, she has effective freedom.

Response: First, I don’t believe that this is a very clear example because her will is not known. However, suppose she had in some past expressed her desire about being fed or not, if ever in that state. In this case, using these

¹⁴⁴ Vallentyne, *Debate: Capabilities Versus Opportunities for Well-Being*, p. 363.

distinctions, she has both freedoms. Further, if we force someone to do things that they do not will, going back to discussion of P2, then we are infringing on one's autonomy and way of life. Suppose I do not want to own home furniture. I find furniture arrogant, useless, and classist to own. I would find it intrusive and at least questionable if someone shows up to my house with a truck full of furniture as a gift for me. So long as I am not violating the liberty principle, and buying furniture is something I am able to do and choose not to, I ought not be forced to do so. This is a crucial point that Vallentyne seems to overlook.

P4. "the opportunity for well-being approach is committed to evaluating opportunities on the basis of their contribution to *well being* (quality of life...)." As does capabilities approach p1-p3.

C. Capabilities approach and well-being approaches are equivalent.

So, in conclusion Vallentyne does not fully do justice to nuances of the capabilities approach and merely reduces it to the well-being approach. I think that his argument fails.

Interestingly, on one hand Vallentyne criticizes the capabilities approach for not promoting functioning for all capabilities, on the other hand, others criticize Nussbaum for demanding that all governments, even non-liberal ones to bring everyone above the level of functioning. Nussbaum's capabilities approach has been criticized for being universalist. The critics argue that expecting non-liberal governments to guarantee her list of capabilities in their constitution is nothing but imperialism and arrogant intrusion on their freedom.

Hilary Charlesworth

Hilary Charlesworth argues, “The development of international law relied on European ideals as universals and these standards were imposed by colonialism and conquest.”¹⁴⁵ Such imposition has in many cases harmed the colonized people. Examples of such cases are endless but one that hits closest to home is the colonization of Africa and North America.

Charlesworth’s concern is worth considering. She is right to be concerned about imposing Western values on those who disagree with us. However, there are ethically relevant distinctions to be made that he is ignoring. Not every universal value (or its imposition) is a violation of one’s cultural autonomy or a nation’s sovereignty. We should be cautious. People’s demand for equal rights in the non-Western societies has often been criticized as being Western. Some societies, such as the Taliban and to some extent the Amish, consider educating girls and women as a false value. A woman’s job, her proper destiny and fulfillment, is to be a wife and mother. But clearly, a society that enforces this vision puts women in a disadvantaged position in relation to men, and limits their choices immensely. Applying universal values to these kinds of issues that have to do with discrimination based on sex, gender, and within family life, is not “imperialism”. It is a moral demand to allow all people to live full human lives and have the opportunity to make authentic (and informed) choices in their lives. This is not an act of colonialism, where people are

¹⁴⁵ Anthony Anghie, “Universality and the Concept of Governance in International Law,” in *Legitimate Governance in Africa*, edited by E.K. Quashigah and O.C. Okafor (The Hague: Kluwer Law International, 1999), p 21-40, and p. 31-33.

being forced to serve a colonial power.

In her paper, *Missionary Positions*, Ann Cudd gives us two responses to this kind of charge that is noteworthy. First, she argues that we have to make distinction between imperialism, missionism, Eurocentrism, and humanism;

(1) imperialism, which seeks to impose a universal standard that merely serve the interests of the imperial power; (2) “missionism,” which attempts to change the deepest spiritual commitments of the subject of the work; (3) Eurocentrism (Americanism?)’ which imposes its aesthetic and cultural norms on others; and (4) humanism, which tries to help the oppressed find a path out of their oppression.¹⁴⁶

Of the four mentioned above, humanism is the only justified method of intervening into another’s culture. (1-3) refer to a situation that intervening nation, which Cudd calls “invaders”, do not have the right intentions. For a group to justly intervene with one’s ways of living, they must have right intentions. Their strategy ought to be effective and the outcome ought to be considered.¹⁴⁷ Imperialists, missionaries, Eurocentrics, and humanists might all have the same goal in mind, but, their intentions differ and that makes a moral difference. Imperialists invade with their own benefits in mind. They will use both physical and material forces to benefit themselves. Humanists cannot be equated with the imperialists because, as Cudd reminds us, imperialism “is not simply an attitude, but involves real, material injury from which psychological injuries may well follow.”¹⁴⁸ Majority of the accusations made to people such as Nussbaum are not founded because she certainly does not have the imperialist intentions or methods. Nussbaum does not believe that we ought

¹⁴⁶ Ann Cudd, “Missionary Positions,” in *Hypatia*, vol. 20, no. 4, Fall 2005, p. 166.

¹⁴⁷ *Ibid.*, p. 167-168.

¹⁴⁸ *Ibid.*, p. 169.

to force people to develop each of their capabilities. However, the opportunity for their development ought to be guaranteed by every constitution.

Second, Cudd rightly argues, that “the postcolonial theorists assume a mistaken essentialist notion of culture.”¹⁴⁹ But cultures are fluid and are always changing. For instance, there has been a huge debate regarding female genital mutilation and how we, in the West, ought to respond to it. The charges of cultural imperialism were and are still brought up against condemning this practice. However, it should be noted that the way that people have looked at this practice has changed and there are numerous (internal) activists that work on banning this practice. There is nothing essential to this practice or the African cultures that *cannot* be changed. There are some groups that have managed to ban this practice in numerous places.¹⁵⁰

Traditional cultures seem to be most concerned about the status of women in their society and how the West affects their choices and ways of life. Surely, to point out to women that they live oppressed lives as virtual slaves to their families, could cause chaos, confusion, and even inspire popular feminist insurrection in the hope of breaking through the “wires” that keep them caged.¹⁵¹ While the dissemination of universalist values is destabilizing, and has been in the West too, this is well and good in the end. This is not a violation of cultural autonomy. It is a prerequisite for it.

Cultures are the activities of people. To be autonomous is to make autonomous

¹⁴⁹ Ibid., p. 166.

¹⁵⁰ See www.tostan.org for more information on abolishing female genital mutilation. Cudd gives us a third reason that is also important but I believe is to some extent implicit in the second response and that is we have empirical evidence that people’s “humanistic intervention” (such as in the example of female genital mutilation) are often succeeded in making people’s lives better. See Cudd’s *Missionary Positions*, p. 166.

¹⁵¹ Recall the Birdcage analogy from the second chapter.

choices. People are not able to make autonomous choices if they are not given a choice, or one that is given to them is not one even worth considering. An illustration: Amish children only attend school up to 8th grade. However, at age 18, each child is allowed to leave and explore the world outside of the Amish community. They must make the choice of staying out or coming back to live in the community by the end of two years. This might seem like freedom, but is it? I would say, at least for women, it is not. Boys are taught many traits that they can use to provide for themselves, if they decide to integrate in the larger society. So if they leave as young adults, they are ready to hold jobs and make a living. It is a different story for the girls, who have not been taught the same things. Girls are taught how to be a good wife and mother. What chances do they have to make a good life for themselves outside the Amish community without much education or a trait? Not much. A universal value that demands that they all people receive at least some kind of training (or at least a high school diploma) in order to be in the same playing field as the men, is threatening to the values of the community, but it allows for equality among the women and men. They might decide to come back and live the Amish life, but that choice is not the least worse; it is one that they have freely chosen among equally viable others. That is true cultural autonomy.

Nussbaum's view is not one that condemns traditional roles, be they in Western or nonwestern societies. However, she argues that "if women fully in possession of the capabilities on the list want to choose a traditional gender-divided mode of life,... any good political liberalism should create spaces for them to do

so.”¹⁵² One might argue that the women in the western liberal world are also faced with many obstacles and the choices that they make do not always leave them in flourishing situations. This is true. However, we have great many choices in choosing our career, mate, education, and the number of children that we will have. Having options might cause confusion and anxiety, but anxiety about making the right decision for ourselves is far superior to the anxiety, even despair, of having no choice in our lives. Nussbaum writes,

We should say, first, that if divorce and career difficulties are painful, as they surely are, they are a lot less painful than being unable to work when one is starving because one will be beaten if one goes outdoors, or being unable to leave an abusive marriage because of illiteracy and lack of employment skills.¹⁵³

Nussbaum refers to women in India, who do not have to worry about making decisions about these matters, but suffer worse harms. If a woman loses her husband and she has no sons able or willing to care for her, she often suffers malnutrition, starvation, injury, or death. The husband’s family might beat her if she tries to find work to feed herself.¹⁵⁴ Surely, for many people divorce is one of the most difficult experiences of their lives, but it is worse if one’s life (or mental health) is in danger by living in a physically (or emotionally) abusive marriage. Anne Phillips argues that “Nussbaum's version of feminist internationalism is built on the significance of choice in liberal philosophy, and yet there is the implication that the choice of

¹⁵² Martha Nussbaum, “Aristotle, Politics, and Human Capabilities,” in *Ethics* (University of Chicago: October 2000), p. 123.

¹⁵³ Nussbaum, *Women and Human Development*. p. 42.

¹⁵⁴ For a discussion of women’s economic situation in India, see Nussbaum, *Women and Human Development*, pages 15-24.

inequality would be irrational in some way.”¹⁵⁵ According to Phillips, Nussbaum condemns decisions that leave us in unequal positions in our family, politics, etc. For example, suppose a society that women “chose” to be inferior (unequal) to men. Consider this scenario: a husband and wife were discussing their future with a professor at South Texas College. The husband was planning to go to law school and become a lawyer while the wife was going to study to be a law office manager. When the professor encouraged them both to go to law school or perhaps she should be the lawyer and him the manager, she said, “no, I should not be superior to him.”¹⁵⁶ Although this is not an ideal situation for Nussbaum, she could respond that inequality can be chosen, but an acceptable inequality should be a result of informed, educated, uncoerced choice and I add, not one that is made by all women in the society because they are women. However, it is possible that informed, educated, and free women might choose to live as second-class citizens, although it is highly unlikely that a woman who has the skills to be self-sufficient, would choose conditions that assure her inferiority. Nussbaum’s approach leaves open this course of action. However, when a woman is content with having no formal education, no legal rights of divorce, no social rights to work, or faces beatings, or even starvation if she rejects the inferior status and condition imposed on her by her society, we have legitimate grounds to doubt her acquiescence is a *free choice*.¹⁵⁷ Does she have a free or autonomous choice? Would she have chosen another sort of life if these extreme

¹⁵⁵ Anne Phillips, “Feminism and Liberalism Revisited: Has Martha Nussbaum Got It Right?,” in *Constellations*, vol. 8, no. 2, June 2001. pp. 249-266.

¹⁵⁶ This conversation happened in Philosophy class in November 2006 at South Texas College.

¹⁵⁷ Nussbaum, *Women and Human Development*, p. 42-43.

conditions did not exist? It is possible, might even be probable. Choices made under such harsh conditions and perilous alternatives are suspicious. When a Mexican illegal says that she is happy to be living in a modest house in South Texas without running water or electricity she might be sincere, but we have to consider the alternative that she escaped and not accept her willingness to remain in such conditions as a free choice if her only alternative is to return to the far greater poverty she fled from.

Under the capabilities approach, the government should not set unjustified limitation on developing our lives and our capabilities. We might decide to limit our own capabilities or not develop some of them but that choice ought to be an informed choice. Consider a former criminal defense attorney, Thomas Van Orden, who in spite of his great talent and abilities, has chosen to make a Washington D. C. homeless shelter his home.¹⁵⁸ Assuming this person was not pushed out in the street and did not lose his job due to some unjust reasons, then it is reasonable to conclude that he has acquired his disadvantaged position by free choice. Perhaps he finds his new way of life mentally and emotionally more relaxing, less constraining in his time, and a better way of life free from other's intrusion. Although there are other equally viable options available to him, he has decided not to develop his capabilities or no longer use them in ways that we might believe they might best be used.

By comparison, this is not the case with majority of the population of the homeless community. They are often runaway children, mentally or physically

¹⁵⁸ Dave Mann, "A Homeless Austin lawyer takes God, Moses, and the state of Texas to Court," in *Gygnus' Study – The Athenaeum*, 12/09/02; <http://forum.cygnus-studyh.com/showthread.php?t=4585>.

handicapped, or those who have lost their jobs and consequently their homes. These are people who have not chosen to live in a disadvantaged situation and have little chance of developing their capabilities. Nor is this the case with the abused housewife who is not permitted to have friends, leave her house or keep a job. Nussbaum points out, “women have all too often been treated as the supporters of the ends of others rather than as ends in their own right...”¹⁵⁹ Often these women consider their ways of life the only way they can live and see no way to improve it. Van Orden, the homeless lawyer, has made an informed decision and has chosen to be homeless and he is not forced into a situation that is potentially harmful to him physically or mentally. In summary, Nussbaum is not necessarily concerned with lack of choice but rather lack of free choice. Choices are not free if we are forced to make them by others. Some choices might appear to be free while they are not. They are due to internalization of expectation of inferiority. If we are convinced that we are in some way or another inferior to others, although our choices are free, we could still be oppressed. So, if one makes choices based on false consciousness, one is not making a free choice.

Charlesworth is also concerned about the implications of universal rights talk on the women of underdeveloped nations. She warns that we ought to be hesitant to talk about universal civil and political rights for women of the third world because their economic plight is more pressing. The worries we have in a liberal democratic society are very different. She puts it this way:

¹⁵⁹ Martha Nussbaum, “Aristotle, Politics and Human Capabilities: A Response to Antony, Arneson, Charlesworth, and Mulgan,” in *Ethics* 111, October 2000, p. 124.

The search for universal women's predicaments can obscure differences among women and homogenize women's experiences. Feminists from the developing world often charge Western feminists with being overly concerned with the acquisition of civil and political rights while ignoring the significance of economic and social rights, such as the right to food and to housing, or collective rights such as the right to self-determination and development.¹⁶⁰

For Nussbaum, the concern would be that the capabilities approach fails to give urgent social and economic needs priority. Charlesworth seems to assume that when we talk about women's right in a universal context that we are not taking into account their basic need such as food, housing or collective rights. Nussbaum repudiates this. The rights that Charlesworth has mentioned here will not be actualized unless women gain the opportunity to develop their capabilities necessary to ensure these rights. According to both Nussbaum and Sen, many governments cannot ensure that everyone gets food all the time but can create and maintain policies, institutions, and programs that ensure people's development of their capabilities required to access Rawls's primary goods. Primary goods are "various social conditions and all-purpose means that are generally necessary to enable citizens adequately to develop and fully exercise their two moral powers, and to pursue their determinate conceptions of the

¹⁶⁰Hilary Charlesworth, "Martha Nussbaum's Feminist Internationalism," in *Ethics* 111, October 2000, p. 73.

good.”¹⁶¹ And become morally equal members of the society with full capability to cooperate in social and political real.¹⁶²

Both Sen and Nussbaum agree that there is a very tight correlation between the primary goods and the capabilities. According to Nussbaum, the list of primary goods includes both “thing-like terms and capability-like terms” but she uses them in terms of capabilities.¹⁶³ Sen asserts that unlike what Rawls might have intended, his theory seeks the capabilities; “He [Rawls] motivates the focus on primary goods by discussion what the primary goods enable people to do. It is only because of his assumption – often implicit – that the same mapping of primary goods to capabilities holds for all, that he can sensibly concentrate on primary goods rather than on corresponding capabilities.”¹⁶⁴ Sen seems to claim that Rawls is talking about capabilities all along. The list of primary goods is a list of basic needs to get people to

¹⁶¹ John Rawls, *Justice as Fairness: A Restatement*, edited by, Erin Kelly (Cambridge: The Belknap Press of Harvard University Press, 2003), p. 57. The two moral powers that mentioned above are (1) “the capacity for a sense of justice: it is the capacity to understand, to apply, and to act from (and not merely in accordance with) the principles of political justice that specify the fair terms of social cooperation.” And (2) is a capacity for a conception of the good: “it is the capacity to have, to revise, and rationally to pursue a conception of the good.” See pages 18-19.

¹⁶² Rawls, *Justice as Fairness*, p. 58. In this and the next page we find the complete list of the primary goods. Rawls distinguishes five kinds of such goods. They are: “(i) The basic rights and liberties: freedom of thought and liberty of conscience, and the rest. These rights and liberties are essential institutional conditions required for the adequate development and full and informed exercise of the two moral powers (in the two fundamental cases). (ii) Freedom of movement and free choice of occupation against a background of diverse opportunities, which opportunities allow the pursuit of a variety of ends and give effect to decisions to revise and alter them. (iii) Powers and prerogatives of offices and positions of authority and responsibility. (iv) Income and wealth, understood as all-purpose means (having an exchange value) generally needed to achieve a wide range of ends whatever they may be. (v) the social basis of self-respect, understood as those aspects of basic institutions normally essential if citizens are to have a lively sense of their worth as persons and to be able to advance their ends with self-confidence.”

¹⁶³ Nussbaum, *Aristotle, Politics, and Human Capabilities: A response to Antony, Arneson, Charlesworth, and Mulgan*, p. 126.

¹⁶⁴ Amartya Sen, “Rights and Capabilities,” in *Morality and Objectivity*, edited by Ted Honderich (London: Routledge Kegan & Paul, 1985), p. 142.

the level of functioning. It seems that without those, we would not have much opportunity to develop our own comprehensive conceptions of the good.¹⁶⁵

Further, Rawls's list of basic rights, which seems to be an extension of his list of primary goods, is also covered on Nussbaum's view. According to Rawls, the most basic human rights are,

[T]he right to life (to the means of subsistence and security); to liberty (to freedom from slavery, serfdom, and forced occupation, and to a sufficient measure of liberty of conscience to ensure freedom to religion and thought); to property (personal property); and to formal equality as expressed by the rule of natural justice (that is, that similar cases be treated similarly).¹⁶⁶

Although this seems like a short list, as Rex Martin points out, these are just stepping-stones and are not the *only* rights that Rawls believes we are entitled to.¹⁶⁷ If we are given the rights that Rawls names in this passage, then we are preserving the option that education and earning skills will help one with one's economic efficiency and self-determination. Nussbaum is more explicit than Rawls. She addresses the reality that different societies will inevitably, and reasonably, contribute different levels of resources to the development of different human capabilities. Nussbaum argues that

¹⁶⁵ It is true that Rawls agrees that without those right individuals are unable to develop their own comprehensive conception of the good. However, in *Law of Peoples*, when he allows for well-ordered societies to include non-liberal ones it is questionable if the people in those societies have rights in the proper sense of rights. Evan Charney references H.L.A. Hart to question the understanding of rights in Rawls's theory; "to have a right is to be in a position to impose a duty on a collectivity or a political regime" and in some nonliberal societies some factions do not have such right (Evan Charney, "Cultural Interpretation and Universal Human Rights: A Response to Daniel a. Bell," in *Political Theory*, vol. 27, no. 6, December 1999, p. 845). The reference from Hart is H.L.A. Hart, "Are There Any Natural Rights?," in *Philosophical Review* 64, 1955, p. 175-191.

¹⁶⁶ Rawls, *Law of Peoples*, p. 65.

¹⁶⁷ Rex Martin, "First, the rights here are something of a minimum or, better, they constitute a list of the most urgent rights (basic liberties and noninjuries) that we, as individuals, have and should have against the greatest evils. Second, these ways of acting (liberties) and ways of being treated (noninjuries) are necessary conditions of social cooperation" Rex Martin. "Rawls," in *Political Thinkers: A History of Western Political Thought*, eds. David Boucher and Paul Kelly (Oxford: Oxford University Press, 2002), p. 20.

there is a complex threshold in each society for the just development of each particular capability. The government has the obligation to assure that all its citizens reach that level. So, putting it in the language of rights, we have a positive right to Rawls's list of liberties (and rights) and Nussbaum's list of capabilities.

To have a positive right to something entails that there is someone that guarantees the actualization of that right. For instance, when I say that I have positive right to food, I have that right whether or not I make a living wage that allows me to eat. The positive right ensures that I eat even if, I make no wages to feed myself or fail to be a productive member of the society. Having a negative right to something is merely "not [to] be stopped from doing something" in this case not being kept from doing what it takes to feed myself.¹⁶⁸ Sen questions the legitimacy of having merely negative rights. Sometimes, it seems that we have to take some positive actions to make sure that people's negative rights are not violated. Sen puts it nicely;

Indeed, *valuing* negative freedom *must* have some positive implications. If I see that negative freedom is valuable, and I hear that you are about to be molested by someone, and I can stop him or her from doing that, then I should certainly be under some obligation to consider doing that stopping. It is not adequate for me to resist molesting you; it is necessary that I value the things I can *do* to stop others from molesting you. I would fail to value *negative freedom* if I were to refuse to consider what I could do in defense of negative freedom.¹⁶⁹

In this quote Sen argues that it is not sensible to say that we do not have any positive freedoms but only negative ones. There are times when we have to take positive steps

¹⁶⁸ Sen, *Rights and Capabilities*, p. 135-136.

¹⁶⁹ *Ibid.*, p. 136.

to ensure people's negative rights are not violated.¹⁷⁰ Capabilities approach aims to guarantee that each person has the opportunity (positive right) to develop his or her own conception of the good.

So, each person has to reach the “*threshold level of each capability*, beneath which it is held that truly human functioning is not available to citizens; the social goal should be understood in terms of getting citizens above this capability threshold.”¹⁷¹ Different people in different cultures will choose differently and that will account for cultural, as well as, self-determination. Surely, a government that does not guarantee this threshold of functioning for each person cannot say that the people in the non-Western societies are culturally different than people in the West, and that Western universal values do not apply to them. People should be given the opportunity to develop their own conception of the good. If the government does not give this freedom to its citizens, it is impossible to say that people in X choose A, and people in Y choose B, because we would not know what they choose if they did have the opportunity to do so. So, it is absurd to say that people of X have the culture A and since we have culture C, our principles do not apply to them. At best, we can say that they have culture A inflicted on them. It is an infliction because people have not

¹⁷⁰ It seems that in agreement with Wesley Hohfeld, Rex Martin argues against positive rights (meaning rights being correlative with duties). Consider the example that Martin uses. We have a right to free speech. That is the government cannot make laws against our speech. Suppose someone does indeed interfere with this right. Martin claims that we have to declare this action “invalid”. That is supposed to respond to the challenge that having only negative rights makes having right meaningless. I believe this declaration of invalidity of action itself an act of our duties to others' rights. If it does not, then we are back to the criticism that rights are meaningless. Our declaration is supposed to do work and so long as it does not it is merely words and does not protect my right to, in this instance, free speech. (See Rex Martin, *A System of Rights*, p. 30-31. See also, Wesley N. Hohfeld, *Fundamental Legal Conceptions* (Connecticut: Yale University Press, 1964), p. 36, 39, 71.

¹⁷¹ Nussbaum, *Aristotle, Politics, and Human Capabilities*, p. 124.

been given the opportunity to decide their personal or political goals. However, not everyone would choose to develop their capabilities nor should they be forced to do so, but the potential has to be there for them if they so choose.

For instance, although in the United States women have been given the opportunity to be economically self-sufficient, not every woman takes this opportunity and develops it. The same can be said about people of the developing world. If they do not want to develop certain capabilities, they ought not be forced to do that. However, the opportunity has to be there for them to so choose and determine their own conception of the good and their politics. Otherwise, there is a violation of their liberty and such violation is not justified, as long as they are not harmful to the members of their society.

Charlesworth is concerned about the *collective rights*. These are groups' rights to self-determination, safety from violation of their identity and cultural imperialism. She asks us to inquire about "whose culture is being invoked, what the status of the interpreter is, in whose name the argument is advanced, and who the primary beneficiaries of the invocation of culture are."¹⁷² I have to some extent responded to some of these concerns. Nussbaum accounts for these rights in her *Central Human Functional Capabilities* and they are protected as long as they do not violate the liberty principle. In her book, *Women and Human Development* she explicitly points out that her view does account for plurality. Different cultures, people, groups, etc., choose to develop different capabilities. However, that is, as long as they do not

¹⁷² Charlesworth, *Martha Nussbaum's Feminist Internationalism*, p. 68.

violate anyone's ability to develop his or her capabilities.¹⁷³ Group rights can be harmful to some members of that group. Those ought to be challenged. Susan Moller Okin wonderfully illustrates how special group rights could be problematic when we begin with a concern for the individual. In short, she is concerned with special group rights that leave women in those groups in oppressive situations. For instance, granting African immigrants the right to genitally mutilate their daughters violates the children's right to safety as well as violating their capability of *bodily integrity*.¹⁷⁴ People are entitled to collective rights as long as they do not violate the liberty principle. Generally, Nussbaum gives us the following five ways that we could follow in order to make room for plurality;

- (1) We specify the list at a rather high level of generality, leaving a lot of room for nations to specify the items in accordance with their history and their current problems....
- (2) We make capabilities and not functioning the appropriate political goal.
- (3) We put the various liberties, and choice itself, in a place of prominence on the list.
- (4) We interpret the whole list as a list of capabilities to be promoted for political purposes, a core that can be the object of an overlapping consensus of many distinct conceptions, not as a fully comprehensive conception of the good.
- (5) On the whole, we leave implementation to the internal political processes of each republican state. Thus we are advising and not requiring.¹⁷⁵

¹⁷³ Nussbaum, *Women and Human Development*, p. 42-43.

¹⁷⁴ Susan Moller Okin, *Is Multiculturalism Bad for Women?*, edited by Joshua Cohen, Matthew Howard, and Martha Nussbaum (New Jersey: Princeton University Press, 1999).

¹⁷⁵ Nussbaum, *Aristotle, Politics, and Human Capabilities*, p. 132.

This summarizes the responses to objections of cultural imperialism or charges of insensitivity to others legitimate claims to self-determination.

Richard Arneson

Richard Arneson brings the final problem. He argues that the idea of threshold is arbitrary and cannot be justifiably instituted. He sets out one form of the problem this way,

One difficulty is how one nonarbitrarily sets the threshold level. Why here and not higher or lower? What we have is a smooth continuum of possible levels of overall capability for flourishing. Higher capability is always better than lower capability. But I do not see how much any unique level (not even a broad thick line) can be picked out such that if a person has that level, she has “enough.”¹⁷⁶

There are three concerns we face with setting thresholds: first, on the individual level Arneson is concerned that we have to draw the threshold level arbitrarily because each individual’s level is different. But this is really an empirical issue, to be determined for each individual, in the context of our resources. This is not a theoretical problem. Second, is the problem of determining what is generally sufficient, because a higher capability for flourishing is always preferable to a lesser. Again, a misunderstanding of the empirical element seems at work here. If each individual is dealt with so they can make autonomous choices as effectively as our resources allow, we have succeeded in securing their basic capabilities. Third, some capabilities are basic and others are not. Why should our constitutional guarantees be at a basic level of capabilities spectrum and not the nonbasic too? The reason is due to

¹⁷⁶ Richard Arneson, “Perfectionism and Politics,” in *Ethics* 111 (October 2000), p. 56.

the fact that what Arneson calls “lower capabilities” are those necessary for the development of the “higher ones”. Each person will have the opportunity to develop his or her own talents, capabilities, and the conception of the good. There is no limit for one’s development of capabilities once they go over the threshold.

Moreover, Arneson is concerned that Nussbaum does not give us clear guidelines on what is required to get people to the desired level. Nussbaum responds:

[T]his [setting threshold] is best done by internal processes of each liberal democracy, as it interprets its own constitution. History shows that this is not only possible but is also quite a reasonable way to balance concerns for history and culture against the demands of a universal norm.¹⁷⁷

So, each government decides how much they are able to do (economically and culturally) to achieve the fullest opportunities for capability development. The historical and cultural aspects of each society must also be considered. Consequently, a pre-democratic culture that does not yet highly value the capability of political affiliation, the threshold would be set below a culture that openly encourages its citizens to participate in the politics. However, the “Levels should be set high enough to goad people to take intelligent action, but they should not be set so high as to bring the whole document into discredit.”¹⁷⁸ No basic human functioning capability must be destroyed or undermined, unless a government is utterly incapable of making those guarantees.

¹⁷⁷ Nussbaum, *Aristotle, Politics, and Human Capacities*, p. 126.

¹⁷⁸ *Ibid.*, p. 127.

Groups or Individuals?

The last concern one might have concerns the capabilities approach in relation to our criteria of oppression set in chapter two. The worry is that a theory of oppression based on capabilities approach, requires us to forgo the criteria of group membership. This is not the case because although my theory is individual based (each person must have the constitutional guarantees that are based on the capabilities), it does not contradict our group membership criterion. We can recognize oppression of a group if one's capabilities are thwarted due to the fact that she or he belongs to a particular group. For instance, if in a society women's bodily integrity is violated because they are women, and it meets the other criteria of oppression, then we know that women are oppressed.¹⁷⁹ However, if a particular woman is severely mentally handicapped and does not have the functioning ability to make decisions about her body, then making decisions for her is not the violation of her bodily integrity because she does not have that functioning ability to make many of the decisions on behalf of herself. The capability of bodily integrity is, "Being able to move freely from place to place; having one's bodily boundaries treated as sovereign, i.e. being able to be secure against assault, including sexual assault, child sexual abuse, and domestic violence; having opportunities for sexual satisfaction and for choice in matters of reproduction."¹⁸⁰ Although the severely mentally handicapped woman is unable to "move freely from place to place" and to limit that is not a

¹⁷⁹ Also see Ann Cudd's "How to Explain Oppression: Criteria of Adequacy for Normative Explanatory Theories," in *Philosophy of Social Sciences*, 35, March 2005, see pages 20-49.

¹⁸⁰ Nussbaum, *Women and Human Development*, p. 78.

violation of this capability, being sexually assaulted is a violation of this capability because it grants her a right to safety.

In Summary

I believe the capabilities approach illuminates the nature of oppression. The capabilities approach focuses on the site of oppression, the individual, and reveals a vast range of morally important characteristics of the individual, all of which play a powerful role in allowing us to describe exactly how oppression occurs and what its remedies might be. As long as the governments guarantee the developments of these capabilities to the threshold of functioning, we can get closer to a society that is just and is beneficial to its members. The capabilities approach takes the focus away from society as a whole or GNP and puts it on the individual, where it belongs. A country might have a high GNP but also be plagued with poverty due to government corruption or lack of concern for the living standards of its citizens. The capabilities approach looks at the individuals' lives to determine if one's society is just.

Once the government guarantees these capabilities, we ought to be free to choose to develop any of our capabilities and other ways of functioning if their development does not violate the liberty principle. If one violates another's development of capabilities, we are justified to keep her or him from developing them. As Nussbaum points out, not all capabilities ought to be guaranteed by the constitution. For instance, the capabilities to commit atrocities are not protected. However, we are able to express freedom of speech although it might be offensive to

some groups. So, to harm is violating one's capabilities that one is entitled to develop (which, as mentioned, are ones that do not violate the liberty principle).

The capabilities approach is a good basis for the discussion of rights. In the next chapter, I will argue that the capabilities generate rights. The capabilities approach best answers many of the questions we might have about what rights are, who has them, etc. So, in essence, harm is violation of one's rights, which are generated by capabilities.

Four

Capabilities as Rights-Generating

Many philosophers agree that at least some people have some rights, but they disagree on what those rights actually are, where they come from, who has them, whether there are correlative duties, or whether rights are positive or negative.¹⁸¹ Whatever rights are, Rex Martin argues, they are, at least, “fairly determinate things.”¹⁸² The theories of rights are numerous and there is much discussion on this topic. Due to space constraints, I will only discuss the three prominent views on rights (rights as entitlements, claims, and wellbeing), and point out how the capabilities approach might answer some of their concerns. Next, I will discuss the differing views on where do rights come from (natural rights or civil rights). Finally, I will show that the capabilities approach, outlined in the last chapter, could answer many questions on rights (at least the ones mentioned here). The idea is that if we ground rights in the capabilities, then we can know “what the motivating concerns [of rights] are and what the goal is.”¹⁸³ The goal here is to get everyone up to the *threshold of functioning*. It is not sensible to give someone the right to have food, when this

¹⁸¹ Alan Gewirth defines positive and negative rights as follows. “Negative rights entail negative duties, i.e., duties to forbear or refrain from interfering with persons’ having the objects of their rights...Positive rights, on the other hand, entail positive duties, i. e., duties to help persons to have the object of their rights.” See “Are All Rights Positive Rights?,” in *Philosophy and Public Affairs*, vol. 30, no. 3 (Princeton: Princeton University Press, Summer 2001), p. 322.

¹⁸² Rex Martin, *A System of Rights*, p. 26-27. This view of rights opposes Jack Donnelly’s view that rights are relative to a situation such as whether the person deserves to have that right not violated (an imprisoned criminal, for instance), or to a situation whether the it is impossible for the government to provide that right. (See “Human Rights as Natural Rights,” in *Human Rights Quarterly*, vol. 4, no. 3 (John Hopkins University Press, Autumn 1982), p. 395-397. According to Martin, “rights are established ways of acting or being acted toward, or being treated” (Martin, *A System of Rights*, p. 42).

¹⁸³ Nussbaum, *Women and Human Development*, p. 97.

person has no means of acquiring any nor is there anyone who will acquire it for them. Women in India have the right to work but many widowed Indian women are unable to get jobs because they are harassed by their families for doing so. At the same time they lack the protection of the government in these situations. These limitations keep women from exercising their right to work. Under the capabilities approach, the government ought to make it possible for women to hold jobs.¹⁸⁴ So, the capabilities approach gives us guidelines to what we ought to do to make sure that citizens in fact do actually have the right to food or jobs and the means to actualize the goal of being fed. Capabilities answer the questions of what rights we have, and what ought to be done about them; without this sort of grounding, rights remain ambiguous.

In this chapter, I want to erect a bridge between rights and capabilities. I will argue that capabilities generate rights. For example, if I have the capability of being involved in politics, I ought to have the right to do so (as far as it does not violate others' rights). According to Bernard Williams, we have to work on the understanding of the connection (or relationship) between these two concepts (rights and capabilities) but capabilities are a better way than rights to talk about human situations. In addition to this, rights talk is more obscure than talking about

¹⁸⁴ If the government does not protect those rights, women still have them but they are being violated. I believe civil rights reflect human (natural) rights. We have human rights by virtue of being human. So, if civil rights do not reflect human rights, that is, if we do not have the civil rights that stem from human rights, then we still have rights. They, however, are violated. Derrick Darby, on the other hand, has an externalist view of rights. He would argue that no rights are violated, because we do not have rights outside of civil rights. However, he adds that although we don't have the rights that the government does not give us, we *should*. (See Derrick Darby, "Blacks and Rights: A Bittersweet Legacy," in *Law, Culture, and the Humanities*, 2, 2006, p. 420-439; and Darby, "Unnatural Rights," in *Canadian Journal of Philosophy*, vol. 33, 2003, p. 49-82.)

capabilities. The capabilities approach to rights starts with what we can do and be as humans and what leads to flourishing human lives and ends with what rights we ought to have. According to Williams,

The notion of a basic human right seems to me obscure enough, and I would rather come at it from the perspective of basic human capabilities. I would prefer capabilities to do the work, and if we are going to have a language or rhetoric of rights, to have it delivered from them [capabilities]....¹⁸⁵

Williams's view is closer to my view than Nussbaum's. I want to draw rights from capabilities while, Nussbaum wants to keep the two different dialogues around but keep them somewhat separate. However, she is correct to point out that "thinking in terms of capabilities gives us a benchmark as we think about what it is to secure a right to someone."¹⁸⁶ We start with capabilities that people have or can develop and see what it means for them to have the ability and to put those capabilities to work as each individual chooses. We can then see what the government ought to aim at in order to have flourishing citizens in the society while they decide what rights they should grant to the citizens.

Although Nussbaum argues that capabilities should be the basis of judgment in a society, she does not want to get rid of rights talk altogether for the following four reasons: (1) Since we are familiar with that kind of talk, the rights talk focuses our attention on people's claims to just treatment by their government, and (2) just claim to certain things by virtue of being human. She asserts that the talk of rights

¹⁸⁵ Bernard Williams, "The Standard of Living; Interests and Capabilities," in *The Standard of Living*, edited by G. Hawthorne (Cambridge: Cambridge University Press, 1987), p. 100.

¹⁸⁶ Nussbaum, *Women and Human Development*, p. 98.

gets more attention than talk of capabilities. Further, (3) when we talk of rights, it often entails the importance of choice and autonomy that capabilities talk does not immediately bring to mind; Lastly (4), as I mentioned earlier, although people have many disagreements about the status of rights, there seems to be agreements about having rights.¹⁸⁷ So, in short, Nussbaum holds on to the rights talk because of the familiarity of the right language used while the details of capabilities approach are being worked out and becomes more familiar.

Sen too holds on to the concept of rights but he looks at rights from a different angle. He believes, “[p]olitical rights are important not only for the fulfillment of needs, they are crucial also for the formulation of needs.”¹⁸⁸ The needs are formulated not by what people believe their rights are but rather by human beings need to develop a flourishing life with full dignity and human value which includes being able to decide one’s own comprehensive conception of the good and live by it. I will argue there is no need for the dichotomy of rights and capabilities because capabilities are building blocks of rights. Let us start with a discussion of rights.

Rights: Entitlements, Claims, or Wellbeing

There are three ways to understand rights: as entitlements, claims or wellbeing. In this section, I will briefly describe these and point out some deficiencies in each view and where my view falls in between the three.

¹⁸⁷ Ibid., p. 100-101.

¹⁸⁸ Amartya Sen, “Freedoms and Needs,” in *The New Republic*, January 10/17, 1994, p. 31-38.

Entitlements

Tara Smith challenges welfare rights in support of entitlements. In her formulation of welfare rights, rights are “entitlements to goods that a person possesses in virtue of nothing more than her need for the goods.”¹⁸⁹ According to Smith, rights are entitlements. Rights as entitlements are claims that we are entitled to use based on “a particular moral principle: the principle that governs freedom of action in social context.”¹⁹⁰ This is negative freedom that requires others not to interfere with people’s actions, as long as they are not harming others. Naturally, this formulation of rights does not protect people from “unfortunate circumstances, human biology, or accidents of nature.”¹⁹¹ In short, Smith’s view is that if we understand rights properly, then we will accept the entitlement theory and not welfare theory. The most prominent supporter of this view of rights is Robert Nozick. According to Nozick rights are “permissions to do something and correlative obligations of others not to interfere.”¹⁹² In Nozick’s view my right to life would entail that no one ought to kill me and if someone does try that they be stopped. So, we are free to do as we wish without interference of others, unless we are violating others’ freedom. Smith adds, “rights are entitlements, expressing certain ways that people may *not* treat one another.”¹⁹³ Libertarians, including Nozick and Smith,

¹⁸⁹ Tara Smith, “On Deriving Rights to Goods from Rights to Freedom,” in *Law and Philosophy*, vol. 11, no. 3 (Netherlands: Kluwer Academic Publishers, 1992), p. 218. I should add this *need* is interesting if it is required to bring people up to the threshold of functioning. She does not make such distinction. However, she claims we misunderstand rights if we look at them this way.

¹⁹⁰ *Ibid.*, p. 220.

¹⁹¹ *Ibid.*, p. 221.

¹⁹² Robert Nozick, *Anarchy, State, and Utopia* (New York: Basic Books, 1974), p. 92.

¹⁹³ Smith, *On Deriving Rights to Goods from Rights to Freedom*, p. 220. *Italic* is added.

generally assert that the only time that we have legitimate ground for coercion is to prevent one's freedom from being violated. So, if I am entitled to free speech, it does not follow that people ought to provide me a "soap box" but rather they must not stop me from climbing onto my soapbox.¹⁹⁴

Unlike the capabilities approach that obligates the government to get everyone to the threshold level of functioning, the entitlement theory leaves everyone to get him or herself to that level if they so wish. The capabilities approach aims to give everyone an equal playing ground (same starting point) to live their lives. Given that people have different talents, economic status, life situations, etc., we have different levels of capabilities and different abilities. So, rights under the capabilities approach will give different people different content to our rights. I might have a right to government assistance when my next-door neighbor does not due to our life circumstances. On the other hand, Smith argues "The freedom that rights protect is not freedom from unfortunate circumstances, human biology, or accidents of nature. Rights shield freedom only from another persons' potential intrusions."¹⁹⁵ That is having rights means that others do not harm one or interfere with one's practice of his or her rights. These are negative rights. As mentioned in chapter three, to have a negative right to something is just "not [to] be stopped from doing something." Positive rights, on the other hand, entail that someone does something to ensure the

¹⁹⁴ Rodney Peffer, "A Defense of Rights to Well-Being," in *Philosophy and Public Affair*, vol. 8, no. 1 (Princeton: Princeton University Press, Autumn 1978), p. 66, 68.

¹⁹⁵ Smith, *On Deriving Rights to Goods from Rights to Freedom*, p. 221.

actualization of that right. Welfare rights theorists would demand some version of positive rights.¹⁹⁶

Smith does not agree with positive rights for three reasons: first, because in her view, rights are not to be looked at as providing a complete moral (social justice) theory but rather as “one component of a complete moral theory.”¹⁹⁷ There are other moral concerns that one might have that individuals should take into account in virtue of other people’s needs and welfare, which might be taken to mean charity. Second, she argues that to have welfare rights chains us to people’s needs. Third, we will end up with a communist government if we give people what they need. I will discuss these throughout.

The capabilities approach keeps people from “potential intrusions” and does more. It also accounts for difference in circumstances, biology, or luck because due to these factors and more, some people need more resources than others to get to the functioning level. If justice requires that everyone have the same opportunities, then we ought to account for those situations mentioned here. For instance, a child who was raised in a family of intellectuals is much more advantaged than the child of an emancipated slave. The former child expects a good life with dignity and endless opportunities but the latter expects a hard life with little respect or few opportunities. If we take the traditional entitlement theory of rights seriously, then as long as the pursuit of education is not actively interfered with, justice has been served. There are no other obligations on the government to provide the necessary means for the latter

¹⁹⁶ Sen, *Rights and Capabilities*, p. 135-136.

¹⁹⁷ Smith, *On Deriving Rights to Goods from Rights to Freedom*, p. 222.

child to also reap the benefits of such rights. I beg to differ. The opportunity for the former child is there and she perhaps has the resources to ensure her success. The latter child however, needs more goods (for instance, money, food, healthcare) to make this opportunity a *real live* option for her. If we are committed to equality, it is apparent that one child will have to receive more to exercise her opportunities and develop her capabilities. The right to education could be meaningless to the child of the emancipated slave because she does not have the resources to practice that as a *real option*.¹⁹⁸ Rights without positive obligations to protect them are meaningless.

Henry Shue makes the same claim when he says,

[T]he infant and the aged do not need to be assaulted in order to be deprived of health, life or the capacity to enjoy active rights. The classic liberal's main prescription for the good life – do not interfere with thy neighbor – is the only poison they need.¹⁹⁹

If a parent is unable to provide food for her child or an elderly person is unable to get the medication that he or she needs, merely staying out of their way could leave them in a grave situation. I agree with Shue that inaction alone is not enough. Inaction is the poison that kills them. They ought to have a positive right to food and medicine, which goes beyond inaction in order for that right to make a difference in their lives.

Smith makes a distinction between having rights and exercising them; “to ‘have’ a right is simply to be in possession of it; it is to be entitled to assert the ‘final

¹⁹⁸ Cudd seems to agree that entitlements theory is not adequate; “For example, consider a Nozickean world where two persons have the same rights but where the parents of one are wealthy and generous to their child and the parents of the other are poor. Clearly they have differential access to the gains from social cooperation. On Nozick’s theory there can be no more moral consideration of the situation than whether the line of the succession of the property rights is unbroken by force or fraud. But it is arbitrary to restrict moral consideration to property rights as they have been protected and enforced by state powers in the historical chain” (Cudd, *Analyzing Oppression*, p. 129-130).

¹⁹⁹ Henry Shue, *Basic Rights* (Princeton: Princeton University Press, 1980), p. 19.

claim' that a right is. To 'exercise' a right, though is actually to invoke it, to make use of it."²⁰⁰ This is an interesting distinction that Smith makes. Let us explore this. She claims that when we exercise our rights we decide to practice them in our lives and no one ought to interfere. To 'have' a right we ought to be able to decide how we should exercise it. This is the matter of one's preferences. The capabilities approach would say that when we have a right we ought to have the preconditions to practice this right. If I have a right to food, there ought to be preconditions to practice that right. Smith, or other libertarians ask, "Is it true that a person's having a right must incorporate her being able to exercise that right?"²⁰¹ Smith answers, no. She gives us the example of someone who has the right to buy beer and the beer store is closed. She claims that X's right to buy beer is not violated because she is unable to buy beer. In her view, clearly, she *has* the right but cannot *exercise* it. So, she concludes that to have a right does not give the rest of us an obligation to make sure that X be able to exercise that right — in this case, buy beer.

It is hard to imagine that she is serious with this example. Certainly, buying beer might be a right that one has but (1) there are certainly more pressing rights, for instance, right to life. Her view implies that if we have a right to life, then no one ought to do anything to maintain it. Suppose I am at a pool alone. I am drowning but no one is there to save me. It does not follow that if there are people who can save my life that it is not their obligation to save me. Even Nozick does not make such a claim. The capabilities approach makes it clear that the government's job is to get us to the

²⁰⁰ Smith, *On Deriving Rights to Goods from Rights to Freedom*, p. 222.

²⁰¹ *Ibid.*, p. 225.

functioning level, if we ourselves cannot, and leave us to decide which of those opportunities we develop.

One might argue that it is too costly to get everyone to the functioning level but there are resources available to do so. I should note that some societies do attempt to bring people to the functioning level but we must do more. For instance, under the capabilities approach, everyone ought to have the right to political activism. That might, at least, mean that people be literate and know the constitution. These are the elements that are already being taught at schools but not adequately. Some children might need more time to learn to read, write or understand the Constitution. People often ignore these children and they are left behind. So, a more developed education system could solve many of these problems with little cost to the citizens. Further, the children of the elite are more likely to acquire these opportunities than those who live in impoverished environments. To help people achieve the threshold of functioning is not as burdensome as one might believe. Take the capability of health for instance. According to the United Nations High Commission of Refugees and former president of Ireland, Mary Robinson, it does not take as much as we might believe to vaccinate all the children in the world and give them clean water.²⁰² If the United States could spend 75 billion dollars on war in Iraq in one month, which the U.S. did, then we are able to spend that much in three years to vaccinate *all* children in the world and give them clean water. Then why not do so? I believe the answer is simple. It is because of

²⁰² Mary Robinson was the first female president of Ireland from 1990 to 1997. She has served as President of Oxfam International since 2002 (see Jennifer K. Colaner, *First female president of Ireland to visit KU law school, address human rights*, April 1, 2003, <http://www.news.ku.edu/2003/03N/AprilNews/April1/robinson.html>. And Mary Robinson, *Human Rights and Ethical Globalization*, April 24, 2003, public lecture.

classism. We do not realize that poverty is a social problem and not an individual problem. I do not suggest what Peter Singer does, to give to charity as much as it takes but remain a bit over their poverty level, but there is great evidence that we can do much more than we are willing to do.²⁰³

(2) Smith commits a strawperson fallacy when she uses trivial examples such as buying beer and closed beer stores. She minimizes really awful human situations to the analogy of beer and the opportunity to buy beer and then attacks the claim that if I have a right to buy beer there has to be someone that has to be there to sell me beer at all times. Buying beer is not, according to Smith, a particular right, rather it is exercising the general right to freedom of action.²⁰⁴ I agree with Smith that to have a right to buy beer is indeed a particular instance of one's right to act a certain way and not a general right to freedom. However, even if we assume that buying beer is indeed a right, then there are more pressing rights that ought to be discussed or at least acknowledged. The capabilities approach gives us a list of such rights we can use as a start. In that same list, we have some capabilities, such as life and health that ought to come to the functioning level to assure that others can be exercised.

When Smith argues that “a right to freedom does not promise unlimited abilities to use one's freedom to satisfy all of one's desires.” regardless of what corner of the rights debate one falls on, everyone agrees.²⁰⁵ First, some desires might be violent ones and violate others' rights. Second, the “welfarists” do not claim that

²⁰³ Peter Singer, “Famine, Affluence, and Morality,” in *Philosophy and Public Affairs*, vol. 1 (Spring 1972), p. 229-243.

²⁰⁴ Smith, *On Deriving Rights to Goods from Rights to Freedom*, p. 224.

²⁰⁵ *Ibid.*, p. 225.

all of our desires ought to be satisfied, rather, they aim to fulfill basic needs (e.g., food) so we can exercise other rights. We live in a society that the upper class benefits from the lower class oppression. It seems that, contrary to Smith's proposition that we will be chained to other's needs, with little harm to ourselves, we can provide those people's basic needs. Consider this example, citizens and legal residents all have the right to get an education in the United States. Suppose that I am unable to provide my child with the required uniform for school. Smith's argument implies that my child does not have the right to a uniform in order to attend school if I am unable to provide that for her. She would argue that I still do *have* the right but I am unable to *exercise* it. However, in her view, if I am unable to buy a uniform, no one else is responsible to provide me with one, so I will not have the ability to exercise my right to education. Social justice requires that we can exercise our rights in general. Mere words on some document somewhere in some storage does not benefit anyone if it does not change lives and improve opportunities for better quality of life.²⁰⁶

²⁰⁶ Earlier I mentioned that Smith might be looking at people to be charitable in these situations. She perhaps leaves it to people to be charitable and provide the poor with their needs but they have to do it willingly. However, we cannot depend on people to be charitable in the huge human rights crisis that we have all over the world. What if people are not charitable? What if people are charitable but do not have the knowledge of whom to help, how and where. Charity is assumed to be supererogatory and I suppose that Smith would not force people to be charitable because that would be an intrusion in people's lives and decision-making. On the other hand, the government has the capability to assure the citizens to achieve the threshold of functioning for everyone without little sacrifices from the citizens (taxation). Currently and for some time now majority of the funds support the military expansion and maintenance. So, the government does not have to take any more funds than it is currently taking but needs to allocate it to bring equality to the citizens, or at least provide the means for equality.

One's right to education, and in this case right to own a uniform, does not imply that one have the right to have every desire fulfilled, as Smith argues.²⁰⁷ If this were the case, then she would be right to say that, "rights would handcuff people to one another's desires."²⁰⁸ Such is not the case. Quite the contrary, the government's job ought to be to situate people so they won't have to be dependent on one another, can make free, autonomous choices and would not be enslaved by their needs. People cannot live free lives if their most basic needs are not met.²⁰⁹ Imagine a family in Thailand who, with the *agreement* of the daughter, sell her to a brothel.²¹⁰ Certainly, she agreed but it was not something that she would have done, if her family had other options for obtaining food. Although many libertarians believe that their view of rights would set people free to live as they wish, without much government assistance, it would only be freedom for middle-class, upper class, the social-elite and the rich. She does not deny this. She concludes her paper by saying that "it is undeniable that some people's freedom 'buys them less stuff.'"²¹¹ This appears outrageous (as it should) to those who care about justice. The poor would have to watch while our children survive the greatest medical calamities, and their children

²⁰⁷ She actually uses such examples like school uniform that I do not have the right to be supplied with.

²⁰⁸ Smith, *On Deriving Rights to Goods from Rights to Freedom*, p. 225.

²⁰⁹ According to Smith, "the poor person is not unfree in the relevant sense (i.e., the sense of freedom that rights purport to safeguard). Her actions and possessions are entitled to the same respect from others as are anyone else's." Although they are entitled to the same respect and actions they will not have it. They will not be able to act in many situations because they do not have the ability to do so. For instance, if someone is illiterate, then she or he is incapable of actualizing her or his capability of political affiliation. Iris Young points out the oppression that the poor faces and how they are marginalized. Poverty is not a problem in a society where everyone is poor, but it is not the case in our world. The rich have freedoms that the poor do not. The rich as able to have their basic needs met, so they can function in other aspects of their lives – namely to develop their capabilities.

²¹⁰ Kevin Bales, *Disposable People: New Slavery in the Global Economy*, 2nd edition (California: University of California Press, 2004).

²¹¹ Smith, *On Deriving Rights to Goods from Rights to Freedom*, p. 233.

die of strep throat. I see no freedom worthwhile in this. Smith claims that I am conflating what she is “*entitled* to take and those which she is *not*.” For example, the rich are entitled to medicine and the poor are not, and this is okay so long as no one kept them from buying medicine or getting jobs that *entitled* them to buy medicine. She adds that claiming that a poor person does not have the right to medicine if he cannot exercise it, is the same as saying, “that a poor person is unfree because she is not allowed to steal.”²¹² The difference is obvious. Stealing is taking one’s property without one’s consent.²¹³ Under no view of rights, including the capabilities approach has anyone the right to steal from another or harm another if it is not in the case of self-defense or defense of another. However, the right to medicine is essential to exercise one’s right to life. As even Hobbes agreed, the government’s job is, at the very least, to protect the citizens’ lives. Providing medicine to a poor person who is unable to do so himself falls under the protection of life. So, the government ought to provide medicine (positive right) and not merely allowing people to acquire it (negative right).

The capabilities approach gets away from shallow examples or claims such as “right to buy beer” and puts emphasis on the rights essential to human flourishing. Individuals in a society do not start at the same place but it does not follow that one’s beginning should dictate where one (at least socially) ends up. Rights ought not be only for the middleclass, upper class, or the social elite. Demanding the government to provide basic healthcare, education, and adequate protection of citizens, is not an

²¹² Ibid., p. 232. Emphasis added.

²¹³ Also, it begs the question of what counts as one’s property.

argument for communism as Smith implies. We do not have to have a communist society in order to ensure everyone equal basic needs and to make sure everyone starts at the same playing ground. Interestingly, a communist nation is unable to achieve what I am arguing for here. Ann Cudd points out in a capitalist society such as ours, we have much more resources to bring people to a better state of existence.²¹⁴ Using Smith's terms a capitalist society is better situated to assure the exercise of rights and not merely having rights. One might fail out of school or get fired due to his or her own failures; however, initial assistance for getting a job — say, having an education — ought to be provided if we care about equality, human dignity, and people's lives.

We might be unable to use force to get people to classes but more information might have to be provided for some people to inform them about the consequences of not taking their education seriously. On the other hand, one might worry that Smith's view would do away with the public education system, public healthcare, farmer's subsidies, and numerous other public benefits that we take advantage of in our everyday existence.

Further, the capabilities approach is not a totalitarian approach. We set the grounds (whatever needed) to bring people up to the threshold of functioning, which would leave the rest to the individual to decide what to do with their opportunities.

²¹⁴ Cudd, *Analyzing Oppression*, p. 122-125.

This agrees with Smith that “respecting rights leaves undetermined the results that people’s actual exercises of freedom will bring about.”²¹⁵

Before we move on to the concept of rights as claims, it is worth noting Ronald Dworkin’s view of the entitlement theory. The entitlement view of rights, according to Dworkin, “uses rather than explains the concept of a right.”²¹⁶ It does not really tell us what rights are, rather the theory merely tells us what it would be like to practice our rights. I think he is onto something. Surprisingly, if we take capabilities for the basis of rights, then we can use the entitlement theory as actually having a concept of rights and in addition entitling people to positive rights and not merely negative rights. Certainly that is not what Nozick and Smith had in mind, but their entitlement theory can also be extended to entitle us to positive rights as well and freedom to exercise them. We could have a hybrid of positive right and entitlement that stem from the capabilities but that is not the traditional understanding of the entitlement theory. Left wing entitlement theories can be articulated in conjunction with the capabilities theory to entitle us to positive rights.

Claims Theory

Joel Feinberg famously defined rights as justified valid claims. According to Feinberg, “[l]egal claim-rights are necessarily the grounds of other people’s duties toward the right-holder.... rights are necessarily linked with the duties of other

²¹⁵ Smith, *On Deriving Rights to Goods from Rights to Freedom*, p. 233.

²¹⁶ Ronald Dworkin, *Taking Rights Seriously* (Cambridge: Harvard University Press, 1978), p. 90.

people.”²¹⁷ So, unlike Nozick and Smith’s view, having a right to education implies that there is someone who has a duty to provide me with the means to get an education. Getting an education is a right of each citizen. Therefore, if my child needs a uniform, pencils, etc., and I am unable to provide them for her, someone else (possibly the government) ought to provide that for her. Shue also agrees that merely having a right is not adequate to respect a right. There has to be someone who has an obligation (duty) to ensure what is essential to exercise that right. This view of rights has caused many controversies over what it means to have a claim, what duty correlates with it, and who has this obligation and to what extent. I will explore some of these problems here, starting with Rex Martin’s concern about the vagueness of a claim.

According to Martin, having a claim is unclear. He asks if having a claim to something is merely having one’s concerns heard. For example, if I have a *claim* to my car, is that claim met if someone hears me talking about it? Surely not, because if the reason that I am claiming my car is because it is stolen, having someone hear me out will not get my car back. However, this is a beginning of getting to my claims about my car. Once this claim (of hearing me out) is satisfied we arrive at the “valid claim” which might entail that one sees my title and is assured that I have not sold my car to anyone else or that I have not defaulted on my car payment and had it repossessed. When “a threshold of satisfaction [of a valid claim] has actually been achieved, the claim becomes a valid *claim-to*. It has then become the ground of other

²¹⁷ Joel Feinberg, *Social Philosophy* (New Jersey: Prentice-Hall, 1973), p. 58, 62.

people's duties." The claim-to is a necessary condition for claim-against, which gives other people duties and obligations.²¹⁸ So, merely having a valid claim does not get my stolen car back to me. I have to have a *claim-to* something and *claim-against* someone to get my car back.

The controversy here comes about when we claim that if one has a right then someone else has a duty based on this right towards the right holder. Consider an example articulated by Phillip Montague. According to Montague, if we have an obligation not to lie to someone then that person has the right not to be lied to but he says, that is an inadequate explanation of the situation. He argues,

For even if, say, the obligation not to lie to others implies that others have a right not to be lied to, the right not to be lied to is not the *ground* of the obligations not to lie. One cannot *justify* the judgment that *A* is obligated not to lie to *B* by stating that *B* has a right not to be lied to, because the two statements are logically equivalent.²¹⁹ Thus, even if a statement concerning one individual's obligation to another implies a statement about the second individual's right against the first, it does not follow that the rights-statement can serve as either a justification or explanation of the obligation-statement.²²⁰

Montague's view implies that we need another basis to justify obligations that we have based on these rights because the rights and the obligations say merely the same thing. So, to say what justifies the obligation is the right that it correlates to, we are begging the question. He makes an interesting point here that the capabilities approach can answer. The capabilities approach looks at people's capabilities, which are the basis of rights, and decides other's obligations. Our obligation is to enable

²¹⁸ Rex Martin, *A System of Rights*, p. 55, Emphasis added.

²¹⁹ He refers to this as the "equivalency dilemma."

²²⁰ Phillip Montague, "Two Concepts of Rights," in *Philosophy and Public Affairs*, vol. 9, no. 3 (Princeton: Princeton University Press, 1980), p. 375.

people to get to the threshold of functioning. Under the capabilities approach, we have the capability of being reasonable and making rational decisions for ourselves. If we are lied to, then we cannot make the decisions we would have made for ourselves if we were told the truth.²²¹ So, lying would violate one's capability to make rational decisions based the facts of the matter. Our capabilities are justified by the fact that they lead to human flourishing lives.²²²

Montague's solution to the above problem is different than mine. He concludes that the equivalency dilemma implies that there are some rights that are ground for obligations and those that are not.²²³ He appeals to D. Daiches Raphael's distinction.²²⁴ First, "rights of actions" are rights that "can be exercised" such as rights to free speech, and defending oneself. Others are obligated to not interfere with these. Second are "rights of recipience," which are those that cannot be exercised. These are rights such as "rights not to be injured or killed and the right to receive a fair wage..."²²⁵ In the case of the latter the rights and obligations cannot be distinguished and so the rights cannot be grounds for obligation.²²⁶ One might have a right to not be killed but another might not have the obligations to honor that right under certain circumstances. Killing someone might be the only way of self-defense. So, the right not to be killed is one that cannot be exercised. That is, the right not to

²²¹ For a discussion on obligation to tell the truth, see, Claudia Mills, "Passing: The Ethics of Pretending to Be What You Are Not," in *Social Theory and Practice: An International and Interdisciplinary Journal of Social Philosophy*, vol. 25, no. 1, Spring 1999.

²²² Rights based on capabilities answer the question of what do rights mean?, what justified a claim to have a right?, and what rights do we have. I will elaborate on this later in this chapter.

²²³ Montague, *Two Concepts of Rights*, p. 378.

²²⁴ Montague cites D. Daiches Raphael, *Moral Judgment* (London: George Allen and Unwin Publishing, 1955), p. 47-48.

²²⁵ Montague, *Two Concepts of Rights*, p. 379.

²²⁶ Recall he earlier said that they are logically equivalent. *Ibid.*, p. 380.

be killed does not obligate person A to not kill person B.²²⁷ According to Montague, “individuals who are incapable of intentional activities are incapable of exercising rights, and may not even possess those rights that are exercisable.”²²⁸ So, as far as this last statement goes, I agree with Montague that if one is incapable of exercising a right, he or she does not have the capabilities to generate certain rights, then that person does not have those rights. However, there are basic capabilities, for instance life or bodily integrity, which each person possesses although he or she might be incapable of actively claiming them.²²⁹

Martin argues against having a duty if one is not aware of one’s duties and cannot ever be aware of them; “if one cannot even be aware of a particular reason for doing one’s duty, or cannot credit it as a good reason, then one cannot be said to have a duty to act for that reason. That particular reason can make no claim on that person’s duty.”²³⁰ I think he is conflating the epistemic question of *can I know all of*

²²⁷ It seems that Montague could add to his view times that one has the right to defend one’s right to life if attacked. If that is the case, then unjust killing of A is immoral. Surely he still has the right to life but if the only way that I can save my child’s right to life is to kill someone (take their right to life away) I ought to have the right to do so in self-defense. The capabilities approach (in agreement with the liberty principle) would account for that too. We are free to develop our capabilities as long as they do not violate others freedom to develop their capabilities. For instance, if I want to become a farmer, I ought not dam the river to gather all the water, I ought to leave some for the others because by damming the river, I interfere with the livelihood of the people who need the river to live their lives and develop their capabilities.

²²⁸ Montague, p. 384. Montague goes on to say that “(most) non-human animals, human fetuses, human infants, and those human adults who, for whatever reason, are incapable of the kind of mental activity required for the performance of intentional actions” do not have any exercisable rights. I strongly disagree that most of the groups mentioned here are “incapable” of intentional actions or even if they are, they are still receive the protection and benefits that rights designate for them. However, he goes on to say that he does not endorse infanticide or cruelty to animals. These are still immoral but we cannot say that “such actions are immoral *because* infants, animals, and so on, have the right not to be dealt with in certain ways, since... such arguments are question-begging.” Unfortunately, this ends his paper.

²²⁹ I will say more on this later in the chapter.

²³⁰ Martin, *A System of Rights*, p. 78.

my duties, with *what duties do I have*. That is, I might not know all of my duties but still have those obligations. For instance, I might have the duty to care for my parents in old age but not know it. It does not follow that I do not have such duty. Knowing my duties is different than having those duties. Further, he conflated the epistemic question with the culpability question. It is true that I cannot be responsible (or morally culpable) for not performing my duties if I do not know what duties I have. However, it does not follow that I do not have that duty. Martin attempts to respond to concerns such as mine but I do not believe that he adequately deals with the issue. He clarifies that,

I am not arguing here that people have only the duties they believe themselves to have....they can properly be held to be under a *moral* duty which they do not now believe themselves to be under if the argument for that duty can be constructed from the overall social set of moral beliefs they do have (subject, of course, to the constraint that this particular construction is not blocked by *other* important beliefs they have, for example, by their scientific or religious beliefs.) My point, then is that people can have only the duties that they are reflectively able to have.²³¹

Again, I go back to what I asked earlier. What if under no amount of reflection can I see that it is my duty to provide adequate food and shelter for my child, although I have the means available to me? Perhaps I have little gift for intellectual analysis. It does not follow that I do not have the duties that I cannot know I have towards my child. At best, it means that I am not culpable, if I do not provide these necessities for her. Numerous counter-examples come to mind in response to Martin's claim here. Suppose a father demands that his daughter undergo female genital mutilation. He

²³¹ Ibid., p. 79. See also pages 80-82 for a more detailed explanation of this thesis.

believes that it is his duty to do so in order for his daughter to be accepted as a good standing member of her community. Suppose that the child dies in the process of this procedure due to bleeding.²³² The father acted wrongly. However, we could argue that he is not culpable in his action because he did not and could not foresee the outcomes. Perhaps he was lied to about the risks to her. He had the best intentions about his daughter's wellbeing. He acted according to what he believed was dutiful. Moreover, in his view the way he acted (demanding that his daughter be circumcised) was not contradictory to his duty to protect his daughter and raise a human being with a flourishing life. He did not see his duty any other way and could not see that he had a duty to protect his daughter from this practice.²³³ This individual might never, given his religious or scientific views, see that it was his duty and only his duty to protect his daughter from this and that he did not. His ignorance makes him not culpable but it does not make him dutiful either. So, to have a duty and to know that you have certain duties are two different matters to be dealt with as such.²³⁴

Rights as *valid claims-to and -against* is closer to the capabilities approach than traditional understanding of rights as entitlements. With the list of the capabilities that Nussbaum gives us, we are in a good place to see what people are capable of doing and help them get to the level that they can use their capabilities to achieve the lives that they so desire. If one has a claim-to and a claim-against

²³² Which is not uncommon among girls and women who undergo this practice.

²³³ For the sake of clarity, we can assume that she was old enough to object to the practice and did so, but her father forced her into it. I say this because we do not have to deal with children or those who "choose" to undergo female circumcision.

²³⁴ Martin's view is if there are no circumstances in which I can know my duty, then I do not have one. I think I do but I am not culpable if I do not deliver my duties.

something, reproductive health, for instance, we have a duty to ensure that she or he has the means to achieve that right, in this case, right of deciding on her or his own reproductive health. That might mean free information on birth control, available and affordable birth control for those who cannot afford it, sex education classes at schools, no forced sterilization or forced pregnancies, etc. The capabilities approach can account for the claim view by clarifying people's rights and duties.

Wellbeing

Lastly, I will give a brief consideration of rights as wellbeing. According to Rodney Peffer, rights to wellbeing stem, "directly from the concept of human worth and involve the guaranteed satisfaction of basic human needs."²³⁵ At the basis of rights as wellbeing, for Peffer, is the idea of human dignity and worth. Feinberg also agreed that human dignity sets people as a "potential maker of claims."²³⁶ The wellbeing view of rights obligates us to provide social goods in order to recognize human dignity and value. Dying of strep-throat is something that can be easily prevented. The right to adequate health care is included in the right to wellbeing. This concept of rights is a consequentialist understanding of rights with the goal of making people's life better but wellbeing theory of rights alone is not adequate for a full list of rights. As Peffer points out in his view, "'rights to well-being' is not an all-inclusive category for any right to any benefit we may have (many of these will be

²³⁵ Peffer, *A Defense of Rights to Well-Being*, p. 79.

²³⁶ Feinberg, "The Nature and Value of Rights," in *Journal of Value Inquiry*, no. 4, Winter 1970, p. 252.

social and economic rights which are social contract rights but not rights to well-being...).²³⁷ Peffer argues that we need the social contract theory of rights in addition to the well-being to account for the satisfaction of non-basic rights such as right to free speech. He categorizes some rights as rights to personal wellbeing and others as political rights. Right to healthcare falls under the category of personal wellbeing, while freedom of speech falls under political rights.

My view of rights is not based on social contract but rather one that makes a human flourishing life based on the development of one's human capabilities. The capabilities approach accounts for this inadequacy that Peffer points out in the paragraph above. In my view we do not need a social contract in order to decide which rights should be granted to people. That is a social contract is not the justification for political rights, which Peffer argues for. We do not need to agree about rights based on some social contract. Instead our lawmakers ought to look at capabilities as a guide regarding which rights to grant to their subjects. Those are rights that lead to human flourishing lives. Social contract assumes that we only agree to certain ways and rights in the society that everyone wishes to have. However, under the capabilities approach we have a list that Nussbaum claims everyone would agree on.

Rights as wellbeing aims to make people's lives actually better. It is not merely having rights that is of interest but rather that these rights actually lead to good lives. The intention behind this theory of rights is praiseworthy. As Peffer puts

²³⁷ Peffer, *A Defense of Rights to Well-being*, p. 79.

it, “rights to well-being arise from our concern for human welfare” which is quite commendable.²³⁸ However, there are worries about this view because sometimes we might not know what is in people’s best interest or what serves their welfare best. Sen reminds us that, “a person may have objectives other than personal well-being. If, for example, a person fights successfully for a cause, making great personal sacrifice, (even perhaps giving his or her life for it), then this may be a big agency [personal] achievement without being a corresponding achievement of personal well-being.”²³⁹ Further, “sources other than the nature of one’s life” can affect one’s wellbeing.²⁴⁰ For instance, one might be ill or lose a loved one. Although illness and death decrease wellbeing and have seriously negative affects on one’s personal life, they do not change the nature of one’s life in the same way as if one loses social or political rights. We can still make the same political choices as before. So, the realm of rights is not coextensive with the requirement of wellbeing. Much of what is required for wellbeing we cannot claim rights to. For instance, I cannot claim a right that my grandfather not dies because his doing so would interfere with my wellbeing.

The capabilities approach certainly has people’s wellbeing in perspective. However, there are personal events in one’s life that keep one from being well. For this reasons, the capabilities approach does not make wellbeing a priority. Some people might be incapable of being well regardless of having all their capabilities met and reached to the functioning level. What we, under the capabilities approach, are

²³⁸ Ibid., p. 65.

²³⁹ Sen, *The Standard of Living*, p. 28.

²⁴⁰ Ibid., p. 27.

concerned with is to set constitutional grounds for development of capabilities which would increase wellbeing but does not ensure it nor does it aim at it. However, the final outcome of each person's life (wellbeing) is not the government's job to protect. The best we can do is to bring each person to the threshold of functioning – we are not to force him or her to take the leap and use all his or her capabilities.²⁴¹

Unlike the rights as claims theory or the capabilities approach, Peffer claims that wellbeing theory does not necessarily put an obligation on anyone to ensure anyone's well being, unless, of course, it is a negative right or if it is in one's ability to do something about it.²⁴² Peffer uses a rather odd example to illustrate this point, which I do not believe succeeds. The example that Peffer gives to illustrate this point is the astronaut who is lost in space. Although he is entitled to food, no one can get food to him. So, no one has the obligation to do something about it. Peffer makes the same kind of mistake that Martin does. Perhaps there is someone who is obligated to feed him (the people who are also responsible for finding him), but, if they cannot feed him due to the fact that they do not know where he is, they are not morally culpable if they cannot find and feed him. I am always responsible to pick up my child from her caregivers at the end of the working day. If I am unable to, due to a flat

²⁴¹ Dale Dorsey seems to think that the capabilities approach would force people to the functioning level of capability that make the "wrong" choices due to adaptive preferences. Therefore, capabilities approach is false. He gives us the example of a man who has decided there is nothing more important than watching television. He is no longer eating nor is he developing his other capabilities, although he has them available. The capabilities approach makes the government responsible for providing this individual to reach the threshold of functioning. It would be absurd for us to try to get this to the functioning level by abducting him and inserting a feeding tube down his throat. All the opportunities are live options for him and he can so choose to pursue those. In the capabilities approach children ought to reach the level of functioning but adults are free to choose, although, they cannot destroy a capability. See Dale Dorsey, "Global Justice and the Limit of Human Rights," in *The philosophical Quarterly*, vol. 55, no. 221 (Oxford: Blackwell Publishing, October 2005).

²⁴² Peffer, *A Defense of Rights to Well-being*, p. 80.

tire, it does not follow that I no longer have such responsibility. It does mean that I am morally not culpable under such circumstances if I fail to pick her up. In sum, the wellbeing theory of rights does not adequately address the distinction between people's individual lives (their health, for instance) and their political life situations.²⁴³ If we support wellbeing theory, we would expect the government (or any other agency for that matter) to ensure that our lives are going well, even in cases where they have no ability/means to do so.

In this section, I have covered three theories of rights: entitlements, claims, and wellbeing. These cover the questions about (1) what does it mean to say "I have a right to x"?, (2) what justifies my claim to a right to x?, and (3) what rights do I have (and particularly, do I have positive rights)? Smith and Feinberg address (1), what does it mean to say "I have a right?".²⁴⁴ Nussbaum directly, addresses both (2) and (3); I aim to show that the capabilities view can address all three. I also believe that the capabilities approach can avoid the shortcomings of each view as I have discussed throughout. It would be best to reject each of these views and start with the capabilities. Capabilities give us what we need if we are committed to justice and equality, at least equal opportunity for a good life.

In the next section I will discuss the two kinds of human rights, and address the question, by virtue of what do we have the rights we have?

²⁴³ I am not making a private/public distinction here. The distinction made is between individuals' personal events and those that happen due to the political situation. For instance, if a woman is victim of domestic abuse, the government should provide for her wellbeing by providing the means for her to change her life. This is a personal event that is also political. However, other personal matters are not something that anyone can do anything about to ensure one's wellbeing, for instance losing loved ones.

²⁴⁴ It is possible that they also address (2) but there is no mention of that in the cited works.

Natural Rights and Civil Rights

There are, generally speaking, two kinds of human rights: natural rights (human rights) and civil rights.²⁴⁵ Natural rights are those that people have in virtue of being human. So, we all have them. This idea comes from the notion that humans are more or less equal. Thomas Hobbes argued that because of this equality in the state of nature we have the right to do whatever it takes to preserve our lives. This right is given to each individual without regard to any other individual's right to life. Everyone has the right to self-preservation with any means available to him or her. Since, for Hobbes, there is no justice or morality in the state of nature, there is nothing that would be considered unjust or immoral. In the state of nature we have the right to rape, steal, or kill in order to preserve ourselves, although it might seem excessive to us. No one is safe in such a situation. The fundamental law of nature has us give up this right to the sovereign, if others will, and he is supposed to protect us and grant the rights that he believes we ought to have. The sovereign's primary duty is to protect our lives. Since we agree to give our rights to the sovereign, we are in a social contract with other people and agree not to kill them. According to social contractarians, agreements make the government legitimate and the rights that we have are those that are given to us by this legitimate government. These are called civil rights.

²⁴⁵ Some would argue that there are positive rights (rights given by a government alone), or rights by agreement, etc., but I am going to categorize rights in two categories for simplicity sake. The distinction between these rights has arisen from my discussions with Professor Ann Cudd.

Civil rights are legitimate claims by citizens of a State against a legitimate government as well as other citizens. This view of rights involves us in the discussion of what makes a government legitimate. If a government meets our legitimacy criteria, then the given rights are the ones that we are entitled to. Although many seem to be committed to this theory, there are problems here too.²⁴⁶ People often disagree about what makes a government legitimate. Even if we agree on this, we ask, why are these rights granted and not others? Imagine a democratically elected government, which does not recognize the citizens' right to freedom of religion. Although the government is legitimate, it is not infallible. Governments make mistakes and sometimes do not grant rights that we have based on our human dignity and worth. The United States' Constitution is supposed to work as an agreement between the government and citizens. So, as long as the government holds itself responsible to respect that document, it is legitimate – for instance, a government that has a constitution such as our own which requires the government to be democratically elected. We are to agree then, if the government meets these two criteria, then it is legitimate. However, even a democratically elected government could still be oppressive and not grant most basic human rights. Under the capabilities approach at least the list that Nussbaum gives ought to be guaranteed by the constitution. This would answer the question of what rights do we have and which should the government grant us. The rights-based capabilities approach is a version of natural rights theory.

²⁴⁶ Social contractarians such as Hobbes and Rousseau are some examples.

As mentioned, natural rights are those that we have in virtue of our humanity. A theist supporter of natural rights theory argues that our rights are God-given. This is a Lockean view of natural rights. He believes that, in the state of nature, we have some rights beyond the right to self-preservation not because of a government or a civil society but in virtue of being human and being creations of God. We have a right to “life, liberty, and property.” Unlike Hobbes, John Locke argued that in addition to right to life, we have the right to enforce the laws and to protect our property. Although, there is justice, morality, and the right to punishment in the state of nature, because the kind of punishment is unclear, people agree to a government to set laws, judges, and enforcers. So, Locke believes that we have rights in the state of nature, but we should have a government to sort things out. He too is a contractarian, but endorses natural rights.

Traditionally understood natural rights theory poses some epistemic questions. If our rights are God-given then we might ask what rights did God give us. If we have rights merely by virtue of being human, then we wonder what they are. So, either way we define the origin of natural rights, we are left with the epistemic question of what rights are. The capabilities approach resembles this view of rights but gets around the epistemic concerns.

In my view, the capabilities are the basis for rights. The rights we have are those that we possess the capability to actualize. As mentioned in the last chapter, although we have the capability to destroy, harm, or commit acts of atrocities, we do not have the rights to do them because that violates others’ development of

capabilities. So, rights come from certain human basic functioning capabilities. Once we reach the threshold of functioning then we have the real live option of living our lives as we choose.

Rights and Capabilities

Nussbaum argues that the capabilities approach is a better way than rights to address injustices. She gives three reasons for this. First, unlike capabilities, there are differing views on rights. That is we agree on what capabilities people have. In the previous pages we have reviewed many of the different ways that people can articulate rights and attendant obligation. On the other hand, regardless of what rights we believe people have, we might have a different idea of where rights come from. If we assume that rights are civil rights, then if a legitimate government does not allow freedom of religion or does not give a group of people the right to earn wages, then there would be no ground by which this society can be challenged. The capabilities approach bypasses all this talk on what rights are and concentrates on what kinds of being we are and what it takes to have a flourishing *human*, not man's or woman's, life. Right to freedom of religion (or freedom to not have a religion) is a necessary ingredient of anyone's flourishing life.

The second reason Nussbaum gives for the superiority of appealing to capabilities over rights to redress injustice is that to bring everyone to the functioning threshold of capabilities, we would have to treat people unequally. Under the capabilities approach we are justified (and often required) to treat people unequally if

that is required to bring everyone to a level where their capabilities can function. Rights, on the other hand, are typically understood to be justified claims of citizens. These claims are those everyone has, *equally*. We either respect peoples' rights, wholly, or we do not. There is no such obligation to get people to the level where they can actually exercise those rights. Shue disagrees.

Recall the entitlement theory of rights. As long as we stay out of the way, that is virtually all that is required of us (government) in relation to other people. The claims or wellbeing theories that give some positive obligations to others approach a bit closer to my view. However, neither of these theories fully captures the importance that rights have in each person's life. Merely possessing rights is not enough to improve one's quality of life. Rights theories do not obligate us to make sure these rights are live options for people. The capabilities approach demands that not only the government reflect these capabilities in its constitutional guarantees but also ensure that everyone can enjoy them. In the United States everyone has the right to get a higher education. There are actually many governmental grants and opportunities for the low-income students. However, going to college is not a live option for many poor students graduating from high school because they do not know about these. They have not attended high schools that have prepared them for college, or simply that they have not been given the encouragement or the information that

they need to consider college as a live option.²⁴⁷

Third, as a pragmatic issue, rights are often looked at as a *Western* idea but capabilities are not. As mentioned in the last chapter, those who identify human rights violations in third world countries are labeled as imperialists. For instance, when the people from the West criticized the practice of female genital mutilation, it was considered a form of imperialism. Often, when the local activists tried to bring awareness to the issue and ban the practice, they were considered “Western sell-outs.” By introducing the capabilities talk, we are able to overcome the claims of imperialism by those who commit the injustices. According to Nussbaum, we can perhaps achieve more if we leave the talk of rights behind and speak of these women who are being genitally mutilated as losing a human capability that all men and women share.²⁴⁸

Nussbaum adopts the talk of rights only to justify the autonomy to choose which capabilities one will develop. But this *ad hoc* appeal is unnecessary. We have the capability to choose between our capabilities. This in itself can generate a right to do so.²⁴⁹ As for her pragmatic concern, we might wonder why this is particularly

²⁴⁷ That is one of the main reasons that military is packed with majority poor and minority members. Many do not know their options when they graduate from high school. The military has great recruitment plan for people who do not have any plans for after high school, do not know they are able to go to college even though their high school grades were low, or that there are funds available for them if they apply. It seems to me that it would be very easy for the government to provide such information since all teachers have been educated in college and are aware of other possibilities. We could set up information booths in high schools and really talk to the students and their parents about their future.

²⁴⁸ Although United Nations’ Declaration of Human Rights has been accepted by every nation, many countries do not honor the list and to hold them responsible, they charge us with Western imperialism.

²⁴⁹ Again, the rights that violate the liberty principle are not granted. For instance, we might have the capability of refusing to recognize others we have the right to do so, unless it harms them (violates their capabilities).

relevant in theoretical work. Moreover, the capability approach rests on empirical claims about human beings that are manifestly shared in all cultures. If she is concerned with the pragmatic issue of using capabilities talk versus rights talk, then she ought not bring up this talk of rights here either. It is pernicious here *if* it is pernicious anywhere. In my view, I rid us of this *ad hoc* dichotomy of right and capabilities by arguing that individuals' capabilities are the basis for their rights. There is a generative relationship such that the morally relevant capabilities generate corresponding rights and duties. Because capabilities are a universal empirical fact we no longer confront Western obsession or culturally relative construct, but rather a universal, human moral reality.

In summary, the goal of politics ought to include the protection and promotion of the capabilities of each person. Such protection and promotion should be understood as a part of what justice requires. Nussbaum uses the capabilities approach as an alternative to the talk of rights. She argues that talk of capabilities is a better way than rights to determine if a government is oppressive. I believe that capabilities generate rights. That is if person X has the potential way of functioning, Y, then X must have the right to develop Y as long as the development of Y does not violate another's development of his or her capabilities. So, for instance, with this view of rights, people will have the right to political activism, because we have the ability to participate in politics. However, not everyone will choose to be politically active. On the other hand, men would not have the right to receive an abortion because they do not have that potential way of functioning required for generating

this right.

The capabilities approach as a basis for rights must respond to the concerns that Nussbaum has about using the rights talk. Her first objection is that there are differing views on rights. The capabilities approach would get around the question of where do rights come from. It gives us an understanding of rights as natural rights without the problems of natural rights as “god-given” or as epistemologically problematic. Some argue that natural rights are rights given by god, but in the capabilities view, rights are generated by each individual’s capabilities – no deity needed. Human worth and dignity dictates that individuals live with dignity and have available to them a life that is worthy of humans, one that leads to human flourishing, if they are willing to take the opportunities it provides. People who are unable to acquire food are unable to live a flourishing life. Starving people cannot function in many ways. The same point applies to those who are ill. On the capabilities to rights view, because people have the capability of life and health, these people have a right to food and health care. Presumably, the ultimate securing of these rights will fall upon the government. Unfortunate situations do not eliminate one’s right to life (e.g., food). While we cannot (and ought not) force adults to eat but they ought to have access to food if they do choose to eat.²⁵⁰

One might argue against the natural rights theory offered here and opt for civil rights. No surprise that the same epistemic issues appear here as well. That is, what

²⁵⁰ This brings two situations to mind. First, people with eating disorders might have to be forced to eat. This should be treated as an illness and not a violation of their right to choose not to eat. Second situation is one that a person is on a hunger strike for a political cause. We ought not force those individuals to eat if they have access to food and they are not suffering from an eating disorder or a similar situation.

rights ought the legitimate government grants its citizens and why or what kinds of rights ought we agree on while we make a contract? Capabilities-based rights solve these problems as well. In response to civil rights we can argue that the government ought to grant rights that lead to human flourishing. If we base rights on capabilities, then we know what rights the government ought to support; in my reconstruction of the capabilities approach, in addition to Nussbaum's list of capabilities, there is always room for additional capabilities that she might have overlooked. It is imprudent to limit our capabilities to the limited understanding of what we know about human nature.

The second reason Nussbaum gives for the superiority of capabilities over rights to address injustice is that in order to bring everyone to the functioning threshold of capabilities, we would have to treat people unequally. According to Nussbaum, rights are had fully and equally by everyone but capabilities require different levels of assistance to reach the threshold of functioning. Our commitment to justice, human flourishing and human dignity obligates us to treat people differently to provide them with the opportunities to exercise their rights. Therefore, since capabilities talk allows for these kinds of inequalities, capabilities talk is superior to rights talk. So, Nussbaum would not use the rights talk – except to address autonomy.

I agree with Nussbaum that some people will require more than others to achieve the threshold of functioning. However, positive rights also generally require different levels of responses in different situations. My view entails that some people

would have rights to more resources than others to achieve that threshold. According to Sen, rights are political goals.²⁵¹ Governments ought to aim to achieve these goals (rights) for each individual. Looking at rights in such a way, the capabilities approach will give us an accurate study of oppression in a particular society. We can look at how much each government is ensuring each person's development of capabilities and what rights, given those capabilities, are granted to the citizens. If individuals (who belong to a particular group) are unable to get to the level of functioning and the government is not actively pursuing that, then there is ground for concern that the government is oppressive.

Lastly, Nussbaum is concerned that rights are often taken to be a "Western" idea but capabilities do not have such stigma. This is a stigma because governments believe they have the sovereignty to do as they wish without the outsider's intrusion. The talk of rights was introduced by the West and is associated with the West and the ideals that some non-Western countries do not hold. If we start with the capabilities talk, instead of rights, we can accomplish more with those who do not share the human rights talk. Since there is no dichotomy here, we do not need to choose one referent over the other. Once the capabilities talk has been accepted and the capabilities have been granted the move back to the talk of rights is a simple move. This understanding of rights can no longer be looked at as Western idea but rather a

²⁵¹ Amartya Sen, "Rights and Agency," in *Philosophy and Public Affairs*, 11 (1981), p. 15. Ronald Dworkin worries that "A goal is a nonindividuated political aim, that is, a state of affairs whose specification does not in this way call for any particular opportunity or resource or liberty for particular individuals" (See *Taking Rights Seriously*, p. 91). Given I have grounded rights on people's capabilities, our goals are individuated. Here we are concerned with each individual achieving the threshold of functioning as our goal.

human issue. The capabilities provide a grounding theory for the Universal Declaration of Human Rights or ones like it. Once we recognize human capabilities, then a list of rights is merely a short step away. For instance, if humans by virtue of being human, can psychologically flourish by having their capability of *Control over One's Environment*, developed by finding work outside the house, then they ought to have the right to do so.²⁵²

In Summary

I believe capabilities provide a better way than traditional understanding of rights to assess whether a society or its institutions are oppressive based on a society's own standards. Rights should be goals of a society and not the beginning. Capabilities are a better way to start. Governments should be evaluated on what rights they are able to guarantee and which they indeed do. We look at the capabilities that the government is able to guarantee. If the government does not have the means to provide an education past high school, then people are not oppressed by their lack of education,²⁵³ but they are perhaps poor. They may still be entitled to assistance from

²⁵² “**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), not just formally but in terms of real opportunity; 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.” See Nussbaum, *Women and Human Development*, p. 80.

²⁵³ This is because oppression happens when only a group is being harmed one way or another due to their membership in that group. So, if everyone is in the same situation, then there might be other harmful causes but it is not oppression. `

outside but not because people are oppressed.²⁵⁴ Oppression is a particular kind of harm and not just any harm done, is oppression. However, they would be considered oppressed if the government has the means but does not, for instance, provide education for the citizens.

I have argued that capabilities generate rights. This is a version of natural rights but it responds to the traditional views on natural rights. Further, there are problems with all three theories of rights (entitlements, claims, and wellbeing) discussed earlier. The capabilities approach answers all of the objections that I have address against each view in this chapter. There are certain commitments to justice, for instance equal opportunity for exercising one's rights that I have expressed here and the only construction that can keep those commitments is the capabilities theory of rights.

²⁵⁴ I should note that if we move to a one world, one government model, then these people will be indeed oppressed because another group of people, say in North America, is able to get an education past high school. So, to determine whether someone is oppressed is determined by the government's ability to take care of him or her.

Five

What is Race?

As part of my job application for my first lecturer position in Philosophy at the University of Texas – Pan American, I received the standard equal opportunity form. Included in this form were the usual options, but there were the two I had not seen: Mexican White and Mexican Black. These terms refer to a combination of one's nationality and race²⁵⁵, which is not often made in the United States. We often don't think of the group "Mexican" as having subgroups. I wondered if there are other racial groups in Mexico, such as Mexican Brown. There have been many times that I have been mistaken for being Mexican due to my black hair, brown eyes, and olive skin. On the other hand, my daughter is often taken to be white, due to her light hair, blue eyes and fair skin. So, my life experiences have pushed me to wonder what race is and how people are racialized. Surely, my daughter is biracial: her father is White and her mother (me) is Brown. How do we decide what race she belongs to?

Although there are some biological differences between the races, the biologists do not use the category race. In addition to this, many scholars of race have noticed that one's biology does not dictate one's characteristics, such as intelligence, abilities, personal traits, etc. W. E. B. Du Bois "was convinced that a collective black identity—based primarily on a shared history and culture [are the primary connecting fact between Blacks], and only secondarily on a common biology..."²⁵⁶ In our

²⁵⁵ I would say that "Mexican" refers to one's nationality and "Black" and "White" refer to one's race.

²⁵⁶ Tommie Shelby, "Foundations of Black Solidarity," in *Ethics*, January 2001, p. 235.

society, I believe race is a very politically charged term, perhaps even more so than gender, because in the case of gender we can, generally, easily distinguish between being biologically male or female. However, there is no easy way to distinguish between being biologically White, Brown or Black.

Many have attempted to justify their human rights violations (such as slavery) by arguing for the inferiority of some races. We now know that there is no correlation between one's race and intelligence (superiority or inferiority). Still, we are very interested in what race is because, as Sally Haslanger puts it, "race is *socially* real, even if a biological fiction" and it plays a huge role in our society.²⁵⁷ If we are to talk about racial oppression, we also have to understand what race is.

According to Haslanger, there are three projects we can involve ourselves with when we take on the question of "what is race?": conceptual, descriptive, and analytical.

A conceptual inquiry into race or gender would seek an articulation of our concept of race or gender....^[258] In contrast to the conceptual project, a descriptive project is not concerned with exploring the nuances of our concepts...it focuses instead on their extension. The third sort of project takes an analytical approach....On this approach

²⁵⁷ Sally Haslanger, "Gender and Race: (What) Are they? (What) Do We Want Them To Be?," in *Feminist Theory: A Philosophical Anthology*, edited by Ann E. Cudd and Robin O. Andreasen (Massachusetts: Blackwell Publishing, 2005), p. 162.

²⁵⁸ According to Michael O. Hardimon we should not be so concerned with what the concept "race" is but rather with the conception of it. Conception of x represents the concept of it. A concept can be represented "in a number of different and competing ways. It is part of the idea of a *conception* that a conception represents but one of a number of possible different and competing ways in which a given concept can be articulated." That is a concept can be interpreted or understood in several ways. According to Hardimon, these interpretations or understandings are "conceptions". Naturally the concept of race can be understood different ways (See Michael O. Hardimon, "The Ordinary Concept of Race," in *Journal of Philosophy*, vol. 100, no. 9, September 2003, p. 341). However, Haslanger does not get involved with figuring out the concept of race because the theory of race she offers has a pragmatic as well as conceptual theory. So, putting it in Hardimon's terms, she looks for the conception of race.

the task is not to explicate our ordinary concepts; nor is it to investigate the kind that we may or may not be tracking with our everyday conceptual apparatus; instead we begin by considering more fully the pragmatics of our talk employing the terms in question.²⁵⁹

Both Haslanger and I take the analytical approach, which allows us the use of both ordinary and empirical methods of investigating what race is, but does not limit us to either of these methods. With the analytical approach, we can decide what race is; the “world by itself can’t tell us... it is up to us to decide what in the world, if anything” race is.²⁶⁰

My interest in race theory is to achieve the following goals: first and foremost, to figure out what race is and to use the answer to fight against racial injustices. Our theory of race has to help us achieve that goal. And second, I personally want to know what that means when I say that I am Persian, Brown, White, or Iranian.²⁶¹ In order to achieve these goals, we need some guidelines. According to Haslanger, our project of figuring out what race is ought to be guided by four concerns. First, it needs to identify the inequalities between the races and on what basis these inequalities continue. Second, our theory has to also recognize the similarities and differences between the racial groups within a society. What does it mean when someone’s race is White, Asian, Black, or Persian? Third, it has to give an account of what role, if any, race plays in one’s art, religion, or philosophy. I suppose this concern will help answer my own question of racial-identity. Lastly, and perhaps most importantly, is that our theory of race helps us recognize everyone’s agency, which will help with

²⁵⁹ Haslanger, *Gender and Race: (What) Are they? (What) Do We Want Them To Be?*, p. 155.

²⁶⁰ *Ibid.*, p. 156.

²⁶¹ The answer to these questions might be connected.

critical social theory and ultimately fighting injustice.

Some modern philosophers, such as Hegel, Kant, and Hume argued that race is an essential property of a group. In this view, there is an essential correlation between one's race and intelligence, culture, aptitude, and even human value.²⁶² E. Chukwudi Eze argues that these theories were used in oppression of Blacks by supporting colonialism and slavery.²⁶³ The idea is that those who were taken as slaves could not do better on their own and so it was just (and even to their benefit) to enslave or colonize them, being inferior was an essential part of their race, their genetic make up, and it could not be changed. This view is called essentialism. We hear the same kinds of sentiments today, but the characterizations are not so much biological anymore, but rather more about the kinds of attitudes a group of people have.²⁶⁴ For instance, we no longer say that Blacks have no rights, because they are not human or that they lack the properties to be human, but they are often stereotyped as lazy, unmotivated, etc. Needless to say, I disagree with the essentialist views on

²⁶² E. Chukwudi Eze, "Modern Western Philosophy and African Colonialism," in *African Philosophy: An Anthology*, edited by E. Chukwudi Eze (Blackwell Publishers Ltd., 1998), p. 213-221.

²⁶³ Although Eze writes from the perspective of African (and African-Americans), there are numerous groups who have been the victim of oppression because of their race.

²⁶⁴ Derrick Darby gives us the stereotypes that we use to classify people today. We say Blacks are lazy, lack ambition, and have a problem with authority (See Derrick Darby, "Blacks and Rights: A Bittersweet Legacy," in *Law, Culture, and the Humanities*, no. 2, 2006, p. 436-437). These stereotypes / generalizations will lead to people's negative disposition about them. We categorize Asians as successful, intelligent and hardworking. These essential characteristics, be they positive or negative, could be dangerous. A recent study by Eliza Noh has shown that suicide rates among minority groups is highest amongst Asian women, because of the high expectations put on them (Malena Amuse, "Asian Women Face 'Model Minority' Pressure," in *Women's Enews*, <http://www.womensnews.org/article.cfm?aid=2891>, September, 18th 2006). If they are less than perfect they not accepted. Tommie Shelby adds that, "[t]he peculiar content of antiblack racist ideology (with its images of blacks as lazy, stupid, hypersexual, and disposed to acts of aggression), the enslavement and brutal treatment of Africans in the New World, and the subsequent exclusion of blacks from the mainstream of American civic and social life have combined to give antiblack race prejudice a distinctive character among American forms of racism" (Shelby, p. 262).

race. I believe, as Haslanger does, that race is a social but not a metaphysical reality.

In this chapter, I will explore what race is and what racial identity is, what the differences are between race and ethnicity, and how these help us in understanding racial identity. In conclusion, I agree with Haslanger in her theory of race.

Race

According to Charles Mills, there are two categories of theories of race. One is the objective category, which “usually connotes the independence of what we choose, what we believe.”²⁶⁵ The other is non-objective, which is the opposite of the objective category. Under the objective category, there are two theories: racial realism and racial constructivism. Racial realism is the view that races are natural kinds. Racial realists believe that “the differences between races are not confined to the superficial morphological characteristics of skin color, hair type, and facial features, but extend to significant moral, intellectual, characterological, and spiritual characteristics also, that there are ‘racial essences.’”²⁶⁶ Racial realists will inevitably fall into the essentialist view of race. According to Anna Stubblefield, essentialism about race claims that physical traits of a person are a reliable source to determine one’s abilities, characteristics, culture, etc. In this view of race, just as we are born with certain hair or skin color, we are born with certain kinds of intelligence, abilities,

²⁶⁵ Charles Mills, *Blackness Visible: Essays on Philosophy and Race* (Ithaca: Cornell University Press, 1998), p. 45.

²⁶⁶ *Ibid.*, p. 46.

culture, or character traits that are essential to the race we are born into.²⁶⁷ For instance, Asians are smart and hardworking, Mexicans are ignorant and dirty, Native-Indians are drunks, and Middle-Easterners are violent terrorists. The essentialists would have to argue that these stereotypical characteristics are essential to their races. We cannot be any other way than we are, given our race. In this view, even if one's path of life were different, one would still be the same person with the same qualities as she or he has today. For instance, the Palestinian culture would not be any different living in an occupied territory than it would have been had their land not been given to the Jews after WWII. Or, as Mills points out, according to the essentialist, the Black culture in the United States would not have been any different than it is, if the Africans immigrated here voluntarily and there had been no slavery, no segregation, and no civil rights movement.²⁶⁸

From a personal point of view, I know that the contemporary Iranian culture is as it is today due to eight years of war, nearly thirty years of oppressive regime, and hundreds of years of corrupt governments. Almost everyone who has lived through the Islamic revolution and war in Iran has anxiety, distrust and confusion about governments in general and a sense of hopelessness about the ability to make any changes in the conduct of their government. This is also to some extent true of the

²⁶⁷ Anna Stubblefield, "Racial Identity and Non-Essentialism About Race," in *Social Theory and Practice*, no. 3, 1995.

²⁶⁸ Mills, *Blackness Visible*, p. 46.

Mexican culture. They are generally conspiracy theorists²⁶⁹ about the government, because they have experienced a great amount of corruption in the government and its conduct. So, I believe these cultures are as they are due to their histories and experiences.

I believe racial realism is false, but, in agreement with Mills and Haslanger, I do not believe that race is not real, as Naomi Zack argues.²⁷⁰ She might be right to argue that there is no biological category “race”, but race is very real in other aspects and it is used politically to determine who gets to be on the top of the social hierarchy. According to Mills,

Race is not “metaphysical” in the deep sense of being eternal, unchanging, necessary, part of the basic furniture of the universe. But race is a *contingently* deep reality that structures our particular social universe, having a social objectivity and causal significance that arise out of *our* particular history. For racial realism, the social metaphysics is simply an outgrowth of a natural metaphysics; for racial constructivism, there is no natural metaphysics, and the social metaphysics arises directly out of the social history.²⁷¹

Racial constructivism is the view that race is a social reality. It determines a person’s social status and hierarchy, but is not an essential property of an individual’s (races) as some modern philosophers have argued. This is similar to the idea of gender being

²⁶⁹ Lee Basham defines conspiracy theory as, “an explanation of important events that appeals to the intentional deception and manipulation of those involved in, affected by, or witnessing these events.” See “Malevolent Global Conspiracy,” in *Journal of Social Philosophy*, vol. 34, no. 1 (Blackwell Publishing, Spring 2003), p. 91.

²⁷⁰ Naomi Zack, *Philosophy of Science and Race* (New York: Routledge, 2002).

²⁷¹ Mills, *But What Are You Really?*, p. 48. Social metaphysics is “analogous to the way ‘metaphysics’ *simpliciter* refers to the deep structure of reality as a whole. So, there are basic existents that constitute the social world, and that should be central to theorizing about it” (Mills, p. 44). I should note that Anthony Appiah opposes this view of race. He strongly argues that race is not real and races have nothing in common, unlike families who indeed do. He also adds that if we identify with one race (prefer them over another), we are being partial and therefore, unethical (see Anthony Appiah, “Racism,” in *Anatomy of Racism*, edited by David Theo Goldberg (Minneapolis: University of Minnesota Press, 1990).

socially constructed. This view of race is useful because it does not ignore the social reality of race, but it gets away from the essentialist view. Also, this view does not deny the fact that we are indeed racially diverse. On the other hand, it does not say that our biological make up dictates the kind of culture, intelligence, or any abilities that we have, nor does it deny the existence of race all together.

Racial constructivists are non-essentialists. Non-essentialism is the view that the physical traits of a person are not a reliable source of one's character, abilities, or intelligence. The non-essentialists recognize the power of history, socialization, environment, etc., on one's attitude or culture. In chapter two of this dissertation I discussed oppression and internalization of the expectation of inferiority. If we live in an environment that constantly degrades us, or those who belong to our race, it will have an adverse effect on how we understand ourselves in relation to others in our society. We internalize the expectation of inferiority and start acting in such a way.²⁷² The non-essentialist would say that if a group is generally less advanced in the society, it does not follow that they are less intelligent, lazy, unmotivated, etc. They are less advanced either because they are discriminated against (in subtle or not so subtle ways) or because they have been made that way by their pasts. Imagine growing up in a society where women are not valued; we would see ourselves differently than we would if raised in a society where women were considered equal citizens of that society with equal worth and dignity.²⁷³

²⁷² I will discuss this more in the next (concluding) chapter.

²⁷³ John Stuart Mill gives this argument about women and slaves both in his work *The Subjection of Women* (see, *On Liberty and Subjection of Women*, edited by Alan Ryan (New York: Penguin Books, 2006).

If essentialism were true, there would never be a cultural difference among people of the same group, be they a racial, gender, or religious group. For instance, the Catholicism that is practiced in Mexico by Mexicans is very different than the one they practice in Kansas. I suppose we could not account for such differences, if we were to hold an essentialist view. Their cultures, regardless of where they are, would remain the same. In South Texas, where the majority (85-90%) of people are of Mexican descent, the Mexican-American culture is much different than Mexican-American subcultures in the rest of the United States where they are the minority.²⁷⁴ If essentialism is true, then we cannot account for the difference in this culture be it in the United States or elsewhere. I should note, one might argue that Mexican is not a race but rather a nationality or ethnicity. They are on the right track. “Mexican” refers to people who are from Mexico. However, in our society the term refers to a particular race. The job application that I mentioned at the beginning of this chapter, actually included the race of the Mexican (Mexican White / Mexican Black). However, we use it as race. So, I am using the term “Mexican” as we would pragmatically use it. This view is congruent with Haslanger’s view of race that I favor.

Evidence dictates that race is not an essentialist concept. I believe the concept of “race” is a changing concept. Different races tend to be different in different contexts. Race, unlike the common perception, is not uniform across time and place.

²⁷⁴ We should be cautious when we talk about anyone’s culture. As mentioned in the previous chapters, cultures are constantly changing. So, we should keep in mind that we are using a term (“culture”) that is always changing. On the other hand, cultures are very diverse. Gandhi once said, “India is 20,000 villages.” We can understand this to mean that they are diverse and each has different needs, expectation, and life arrangements. Now the Mexican culture in South Texas is no exception.

Someone who is racialized to be White in Iran might not be so in the United States. For instance, anyone who has light skin, light color eyes and light brown hair, is considered White in Iran but in the United States that individual is not White. The “Iranian White” will be more privileged in Iran but may find herself in a disadvantage position in relation to “American Whites” in the United States. The definition of race will have to have the flexibility to account for these differences.

Jorge Gracia argues that taken together, our genetic connection to a group of people (ancestry) *and* the physical appearance generally identified with a race makes us belong to that particular race.²⁷⁵ This is a really interesting view of race because those who do not share the “general appearance” with the rest of the group but do identify with that race, will not belong to that race. For instance, there is a huge minority of White Mexicans who are indistinguishable from White Europeans. In Gracia’s view, they would not be Mexicans because their appearance is not generally identified with that race. According to Mills, “the appearance of R-ness [race-ness] is neither sufficient nor necessary for actual R-ness – though it will generally be a good evidential indicator – for some people may be able to ‘pass.’”²⁷⁶ Recall the Blacks who were “passing” as Whites in the 1930’s and 1940’s. The idea that framed this as “passing” or deceiving others about race was, and to some extent still is, that if you

²⁷⁵ Jorge Gracia, *Surviving Race, Ethnicity, and Nationality: A Challenge for the 21st Century* (Maryland: Rowman & Littlefield Publishers, Inc., 2005). Mills also points out that the different criteria that we might use to decide what one’s race is or what race we identify with are not necessarily mutually exclusive because there are often more than one criterion used to determine what race is, as Haslanger does (see Mills, *But What Are You Really?*, p. 50).

²⁷⁶ Mills, *But What Are You Really?*, p. 51. Later in the chapter I will argue against Mills that it is not so clear that those who were (are) passing are necessarily people of the race they are trying to hide. Haslanger also will respond to Mills’s concern.

have 1/8 “Black blood” then you are Black. So, in a White person’s line of ancestry if there are a few Black individuals, she or he is considered Black. However, it does not go the other way. If in the line of ancestry of a Black person, there are few White persons, it does not classify them as Whites. They looked White enough, so why were they Black? I suggest that it is due to racism.²⁷⁷

Although there are biological reasons for one’s physical appearance, there are no other biologically interesting differences between humans significant enough to affect our basic capabilities. Ancestry seems to be sufficient for one’s determination of race. That is if one’s ancestors are from Asia, then that person’s race is Asian.²⁷⁸ However, in a pragmatic use of the term, “race”, people ordinarily use it to refer to one’s appearance as well as ancestry, which is close to Gracia’s view. An interview with a young *albino Black* man revealed the identity struggles that he goes through in everyday life. He has all the stereotypical physical features of Africans but he also has blond hair and very white skin. He falls into cracks in both worlds. He is not White and he is not Black. He is a hybrid that neither community accepts as theirs, although he self-identifies as Black. Our theory of race has to account for the

²⁷⁷ Many Iranians refer to my daughter as a “White girl.” I am Iranian (not very light-skinned), I speak the Persian language, and so does she, she enjoys Iranian gatherings, etc., but my extended family and some friends do not recognize half of her race, mine. Biracial people are often categorized one way or another. When I was filling out my job application, there were no mentions of biracial categories that one could choose. My aunt once told me that she is a good kid because she is American (White), not like our (non-White) rowdy children. That is “internalization of expectation of inferiority.” Why some people believe they are any better or worse than other people because of their skin color is, often, a reference to their culture and wealth and not so much about their race, besides, my child is half non-White.

²⁷⁸ The same thing I said about the Mexicans can be said about the Asians. The term “Asian” refers to an individual who was born in the continent Asia. In essence, people from Iraq are Asians because they are born in that continent. However, the term is no longer used that way. When we use the term “Asian” refers to the same thing as the not-politically-correct term “oriental” and so I use the term “Asian” in that sense.

struggles of this individual and assign him a race.

More often than not, minorities are victims of racial violence due to the way they look and not what race they actually are. For instance, the Indian Sikhs who was beaten in the wake of the World Trade Center attacks in September of 2001, or the newspaper attendant from Bangladesh that was attacked by a fireman in New York, were both victims of violence due to their Middle-Eastern appearance and resemblances to “al Qaeda” members.²⁷⁹ Our theory of race also has to help us distinguish between the races as well. Haslanger’s definition of race is one that meets both of the above criteria and entails Gracia’s theory of race, but challenges Mills’s.²⁸⁰ According to Haslanger,

A group is *racialized* iff_{df} its members are socially positioned as subordinate or privileged along some dimension (economic, political, legal, social, etc.), and the group is “marked” as a target for this treatment by observed or imagined bodily features presumed to be evidence of ancestral links to a certain geographical region.²⁸¹

In this view, if a member of a particular group is “passing” and is not victim of oppression, Haslanger would argue that that person is not of that race. I agree with Haslanger that if a person whom we traditionally consider Black because they have some Black ancestors, does not meet our criteria for being Black, then she is not Black although her ancestors were dark-skinned people. She is not Black because she would not suffer the same disadvantages as a person who meets the above criteria.²⁸²

²⁷⁹ Roseanne Pereira, “Valarie Kaur’s Search for America after 9/11,” in <http://minnesota.publicradio.org/display/web/2007/04/03/sikhfilm/>, April 3, 2007.

²⁸⁰ Recall that according to Gracia X belongs to a particular race if X shares ancestral background with a group and has the physical appearances generally identified with that particular race.

²⁸¹ Haslanger, *Gender and Race: (What) Are they? (What) Do We Want Them To Be?*, p. 162.

²⁸² *Ibid.*, p. 169, fn16.

On the other hand, the albino Black person who is very fair is actually Black because he does suffer from the disadvantages that dark skin Blacks do. This definition of race is good because it does not categorize race as merely a political category.

According to Gracia, to look at race as merely “the products of political agendas used to advance the interests of certain groups...is dangerous in that it necessarily makes our approach to these phenomena [race, ethnicity, and nationality] political and ultimately a matter of power.”²⁸³ If race is merely political then only the few that have power will define race and they are ones that will continue to define race in order to benefit themselves. This will leave us “without recourse.”²⁸⁴

Haslanger’s definition takes into account, not only the political aspect of a race, namely their social status, being privileged or disadvantaged in the society, but also the physical appearance that is generally identified with that group. These are sufficient criteria for determining what race is.²⁸⁵

One might have a problem with this definition because it challenges our traditional understanding of race. Traditionally, like Mills’s view, we are inclined to say that Blacks who were “passing” as Whites were still Black, so we cannot say they are White, even though they look White. According to Tommie Shelby, “she might simply conceal her black ancestry — as those who ‘pass’ do — but in either case, she would still be black...even if never found out.”²⁸⁶ According to Haslanger, Shelby is mistaken. Our traditional understanding is flawed. If the person who is passing as

²⁸³ Gracia, *Surviving Race, Ethnicity, and Nationality: A Challenge for the 21st Century*, p. 144-145.

²⁸⁴ *Ibid.*, p. 145.

²⁸⁵ She believes her criteria are sufficient and necessary.

²⁸⁶ Shelby, *Foundations of Black Solidarity*, p. 240.

White can live and conduct his or her life as a White person with all the privileges that being White in the United States entails, then their Blackness is no longer socially and politically relevant, and hence ceases to exist.

However, it might be the case that a person who is not categorized as Black identifies as one. So why isn't she Black? She might self-identify as Black, although that would not be her race but rather her ethnicity. So, we can identify with a particular race without belonging to them. One might argue that whatever race that we identify with is our actual race but typically we are conflating race and ethnicity. We are raced by the society, but we can choose our ethnicity. Although I might not be racially Black or White, I could be ethnically so.

Ethnicity is related to race to some extent but there is not a necessary connection between race and ethnicity. Members of a race might not even share history or cultures. For instance, the term "Black" could refer to those living in the United States whose ancestors were brought here as slaves or it could refer to Africans who have willingly moved, or those who are currently living in Africa, or perhaps to Jamaicans. Surely, these people are all dark-skinned and are categorized as "Black" and suffer the same social disadvantages. However, they might have different ethnicities. Ethnic groups, as Susana Nuccetelli describes them, "share a complex property supervenient on the history of relations within their group, with others and environment."²⁸⁷ Ethnic group terms often refer to such groups and the term could get a referent in many different ways. Consider the ethnic group term,

²⁸⁷ Susana Nuccetelli, "Reference and Ethnic-Group Terms," in *Inquiry: An Interdisciplinary Journal of Philosophy*, vol. 47, no. 6, December 2004, p. 542.

“Eskimo.” The term “Eskimo” was used by the Algonkian tribe that neighbored the Eskimos. The term “Eskimo” means those who are “eaters of raw meat.”²⁸⁸ Ethnicity here is established by a particular cultural practice that their neighbors did not approve of. However, the referent is set in this case by a group’s pragmatic use, whether or not Eskimos still eat raw meat or ever did, this term picks a group of people. The term “Indian” (Native-American) is another example. It was set by Christopher Columbus who, thinking he had reached India, called the Native-Americans, Indians. Unlike what we might think, the concept of “ethnicity” is much broader than race. People of a particular ethnicity are more historically and culturally than genetically bound.²⁸⁹

To summarize my view of race, I accept Haslanger’s view, which is not an ontological theory of race but rather a working theory. A race is a group of people who are either advantaged or disadvantaged because they more or less share a similar physical appearance, typically associated with a particular geographical area. The Indian Sikh individual who was a victim of bodily harm because he was presumed to be Middle-Eastern shares the same bodily appearance with many Middle-Easterns and so he is racialized to be such and for all intended purposes on that particular occasion he is Middle-Eastern. He suffers the same disadvantages (or advantages) in the society and is, therefore, put in the same category at Middle-Easterns. Whether he identifies as such or not, is not of interest for our concept of race.

When we talk about racial identity, we could be talking about one of the two

²⁸⁸ Ibid., p. 529.

²⁸⁹ See Gracia, *Surviving Race, Ethnicity, and Nationality: A Challenge for the 21st Century*, p. 148.

following scenarios. On one hand, when I say I racially identify with a group of people I mean I am from the same ethnic background; that I share some history or culture with them or that our ancestors shared some history or culture. In that case, we should call it “ethnic identity.” The people in an ethnic group could be more diverse and one might or might not share some ancestral background with them. One might not share any physical appearance with them either. On the other hand, I could mean that I racially identify with a group based on the way that I have been *racialized* in a society and that is the definition that Haslanger gives us, with the group that I have been categorized with and been disadvantaged because of that categorization.²⁹⁰ This discussion of racial / ethnic identity takes us to the next section.

Racial / Ethnic Identity

Groups that are victims of oppression often come together to fight against their oppression and to improve their situation. They do that by identifying with a particular group. In the case of racial oppression, the members identify a group either based on their racial categories or ethnicity. According to Mills, we can racially identify by bodily appearance, ancestry, self-awareness of ancestry, public awareness of ancestry, culture, experience, and subjective identification.²⁹¹ Each of these comes

²⁹⁰ One might be racialized a particular way at one point and not other. For instance, the Italians used to be racialized as that but they no longer are racialized in any way but White. So, the concept of race, as Haslanger points out, is a changing concept.

²⁹¹ Mills, *But What Are You Really?*, p. 50-54. Earlier I made a distinction between race and ethnicity. Mill does not make this distinction when he is talking about racial identification. I suggest that when he is talking about racial identity, he is really referring to ethnic identity, as I have made the distinction.

with its set of problems. I will briefly touch on the three that are often used to categorize or self-identify with, culture, ancestry and bodily appearance.

Culture

Generally speaking people are very visual in their categorization of people. With people's appearances, come many stereotypes. Those stereotypes correspond to our beliefs about other's cultures. For instance, when we see someone who is Mexican, we have certain cultural expectations, than we might not have if we see someone who is White. On the Mexico-U.S. border it is very common to see Whites who do not identify with White culture, regardless of what they might look like. They consider themselves Mexican in ethnicity and self-identify accordingly.²⁹² On the other hand, many Mexicans in the Rio Grande Valley in South Texas who have lived here for more than a generation, are wealthy and have integrated into the "White" culture are frequently referred as "Whites" and they often self-identify as "White". They classify wealth and culture as criteria of racial identity.²⁹³

Those who consider culture as criterion of racial identity, will never be able to escape their appearance and be considered as a part of that race to which, generally, their physical appearance does not conform. For instance, given my appearance (olive skin, black hair and very dark brown eyes), whether I was born in the U.S., speak

²⁹² A White student of mine at University of Texas – Pan American, who was born on the border and lived here all of his life, has no White friends and speaks fluent Spanish self-identifies with Mexicans. He often said, "My people are Mexican people. I feel alienated when I am around Whites only" (School year 2005-2006).

²⁹³ They are not necessarily the "White Mexicans" that the job application was referring to. This group could be as dark-skinned as one might expect.

only English, celebrate only American holidays, etc., I will still be considered “the Other” with a whole set of cultural expectations, although it might be true that I do not identify with my Iranian culture.²⁹⁴ I am always asked where I come from and the question does not refer to the State, but rather my ethnic background. On the other hand, someone who has a lighter complexion than I will not be asked about his or her ethnic background (race), especially if they have been culturally assimilated.

Another scenario is when someone is rejected from the group she identifies with because she is considered not *well-cultured* in her group. A Black University of Kansas student once told me that she and her sister’s “Whiteness” is disturbing to her grandfather.²⁹⁵ They talk, dress, and act like White people, and so he classified them as not Black. Certainly, a majority of our society did not see her as “White”. At least, she will face many of the obstacles that Black women face in the society but her grandfather doesn’t categorize her as belonging to his race, Black, because she has lost the “Black culture.” So, I would say, culture is what ethnically binds us to a group and race is how we are socially categorized.²⁹⁶

What is the role of culture in the society and formulation of our concept “race”? Tommie Shelby argues that preservation of culture is not necessary for the

²⁹⁴ The idea of “The Other” was introduced by Hegel, which refers to one who is difference than oneself. It carries a connotation of separateness and alienation.

²⁹⁵ She was my student at the University of Kansas, in Lawrence, Kansas in Fall 2001.

²⁹⁶ Mills would say the University of Kansas student, or ones like her, are examples of an “Oreo-man,” which apparently refers to someone who has appearance of Black, and is socially categorized as Black but has the “White” culture, thinks and lives the “White” culture (Mills, *But What Are You Really?*, p. 60). It is true that we classify people to be culturally one thing or another but that stereotyping is not used to racialize people. A White European who has adopted stereotypical culture of Blacks, is still not considered Black, although she or he ethnically identifies as such.

emancipation of race.²⁹⁷ That is, to be taken seriously in a society and be granted full dignity and human value, one need not keep one's culture. Surely he is right to say that preservation of culture is not essential to have a race be free but if one's race is of utmost importance to a group for group identity, then having to give up their culture (or keep it hidden) in order to be accepted as equal members of the society, is oppressive. For instance, if Mexican-Americans have to give up *quinceañeras*, coming out celebration of 15th birthday, eating tamales for Christmas, and stop planning their life around their family's lives, to be accepted as equal members of the United States is a sign of cultural imperialism.²⁹⁸ So, although culture is not essential to free a race, it might be essential for preservation of ethnicity.²⁹⁹

Ancestry and Physical Appearance

Physical appearance is often associated with one's ancestry and the appearance is often associated with people's race.³⁰⁰ According to Appiah, if

²⁹⁷ Shelby, *Foundations of Black Solidarity*, p. 236.

²⁹⁸ We defined cultural imperialism in chapter one as Iris Young does; "Cultural imperialism 'consists in the universalization of one group's experience and culture, and its establishment as the norm' and is given preferential treatment. Cultural imperialism is most obvious in a society like ours that places minority culture in an inferior status to the majority (White) culture" (Young, *Five Faces of Oppression*, p. 285).

²⁹⁹ Although I believe culture plays a big role in some people's lives, I do not believe that it should be saved if the cost is oppression of a group of people. For instance, if we have to keep female genital mutilation (FGM) to preserve cultural identity, then cultural identity will have to be sacrificed for the benefit of the females. On the other hand, if the only way that a people can achieve equality in a diverse society is to give up its culture, then we are right to be alarmed with the possibility of existence of oppression. Nussbaum points out the importance of saving human functioning and dignity when she says, "And what we are going to say is: there are universal obligations to protect human functioning and its dignity, and that the dignity of women is equal to that of men. If that involves assault on many local traditions [culture], both Western and non-Western, so much the better, because any tradition that denies these things is unjust." See Martha Nussbaum, *Sex and Social Justice* (Oxford: Oxford University Press, 1999), p. 30.

³⁰⁰ As we pointed out that could be problematic because of the cases of people who are "passing".

someone has Black ancestry, although their physical appearance might not show it, one might argue, they are “inauthentic” if they hide that fact because in our society we still categorize people that way. He states that, “while they [the people who are passing] may have prudential reasons for concealing the fact of their (partial) African descent, this will be held by many to amount to inauthenticity, especially if they adopt cultural styles associated with “white” people.”³⁰¹ If we take Haslanger’s view of race seriously, then there is nothing inauthentic about these people. They are merely given a race by the way that they are perceived. On the other hand, Appiah argues that race is not a biological classification and so it is not real in the metaphysical sense. So, if race is not metaphysically real, then why say someone is being inauthentic if they are “passing”?

Appiah gives us an answer similar to Haslanger’s view on race:

for those for whom being African-American is an important aspect of their ethical identity, what matters to them is almost always not the unqualified fact of that descent, but rather something that they suppose to go with it: *the experience of a life as a member of a group of people who experience themselves as—and are held by others to be—a community in virtue of their mutual recognition—and their recognition by others—as people of a common descent.*³⁰²

So, the life experience and the recognition by others is a part of racial categorization and should be a part of racial identity. Their identity is dependent on their ancestors, their origination place *and* such recognition by the other community. So it seems that a person who is not recognized to be from that community is not meeting Appiah’s

³⁰¹ Anthony Appiah, ““But Would That Still Be Me?”” Notes on Gender, ‘Race,’ Ethnicity, as Sources of ‘Identity’,” in *The Journal of Philosophy*, vol. 87, no. 10, Eighty-Seventh Annual Meeting American Philosophical Association, Eastern Division, (Oct., 1990), p. 498.

³⁰² Appiah, “*But Would That Still Be Me?*”, p. 497. Emphasis added.

criteria for being from a particular race. This view has some elements of how Haslanger designates a race.³⁰³ However, like Haslanger, he would say that people, who are “passing” with an adopted White culture, are not Black. However, one might argue, they are inauthentic Black people who are lying to the community. Because the society will not treat them as such and so long as they can live without the oppression that Blacks typically live with, then that person is not Black. This is a consistent view on race, if race is indeed a social reality and not so much a metaphysical one. If the society does not recognize one to be from a particular race, and race is not a category that the biologists use, then that individual is not from the race that she or he is not categorized to be by the society.³⁰⁴

Racial self-identity and Essentialism

Stubblefield argues that we should accept non-essentialism because, “the overall genetic differences among groups of humans classified by race is so small as to render race irrelevant as a determinate of any other human attribute.”³⁰⁵ Stephen Jay Gould explicitly endorses this idea;

³⁰³ Appiah seems to have not only a metaphysical theory of what race is but he wants to include the self-identification and other’s recognition to the concept of a race. He seems to mix in two different issues: race and authenticity. According to Appiah a part of being an authentic person is to have your race to be known to the public but at the same time, a part of what it means to belong to a race is the community’s identification. So, Appiah seems to be in the middle of a contradiction. I cannot be inauthentic about my race if my community does not recognize me as that. So, if we go back to the view that as long as you have any “Black blood” then you are Black, Appiah’s view has some contradictions to be sorted out.

³⁰⁴ Both Haslanger and Appiah agree that race is a changing concept, although Appiah is not explicit about it. They both agree that some races are racialized in the society at some time but not others. Appiah gives the example of Irish-Americans who were at some point racialized but are not now and are not in authentic if they do not reveal or acknowledge their ancestry (Appiah, p. 498).

³⁰⁵ Stubblefield, *Racial Identity and Non-Essentialism About Race*, p. 341.

Although frequencies for difference states of gene differ among races, we have found no ‘race genes’ – that is, states fixed in certain races and absent from all others. Lewontin (1972) studied variation in seventeen genes coded for differences in blood and found that only 6.3 percent of the variations can be attributed to racial membership. Fully 85.4 percent of the variation occurred within local populations (the remaining 8.3 percent records differences among local populations within a race).³⁰⁶

Given such a difference, it makes little sense to group people based on race and to identify with that race. On the other hand, we want to identify with *our* people be it as our community or as a political statement to fight against oppression. The question is, what about them makes them *our* people? Are there some essential characteristics that make them our people? Given there are no genetic components, then how do we decide which there are and how do we keep from falling into essentialism? There are no essential culture, characteristics, political affiliation, geographical similarities, etc., that binds people together.

In order to unify against the oppression of our race, Stubblefield sets out to make consistent the non-essentialist view that she holds with the usefulness of racial identification. She argues that “identifying oneself in terms of race...[which she calls labeling] is harmful to the person being labeled regardless of the content of the label.”³⁰⁷ It is harmful because, among other things, it is divisive; it gives people unjustified expectations of the people labeled; assumes the individual has certain traits without any time spent getting to know that person.³⁰⁸ So, we do not label ourselves but we unite under the label that the society gives us. Basically we identify

³⁰⁶ Stephen Jay Gould, *The Mismeasure of Man* (New York: W. W. Norton & Co., 1981), p. 323.

³⁰⁷ Stubblefield, *Racial Identity and Non-Essentialism About Race*, p. 345.

³⁰⁸ *Ibid.*, p. 345.

ourselves “in terms of social meanings and situations [oppression] that are an integral part of the society or world” in which we live.³⁰⁹ This understanding of racial identity is congruent with Haslanger’s definition of race that I endorse almost entirely. Stubblefield, as a non-essentialist about race, justifies racial identification based on the way the society defines and labels a race.³¹⁰ At the same time, if the oppression of that group ceases to exist, so will their justification for racial identification.

Michael C. LaBossiere argues that it is not racial identification that we should be united under, as Stubblefield suggests. We should identify with one another under the *label* that we are categorized under and not necessarily with a particular racial group with which we share some similarity, whether or not we *identify* with members of that group. This way of looking at self-identity becomes more of a political classification and not an essentialist categorization of a race. Suppose that I, as an Iranian woman, have been labeled Mexican and suffer the same kinds of oppression. LaBossiere argues that we ought to unite under that label and not so much about who we *self-identify* with if we are fighting against oppression. LaBossiere suggests that all those that are labeled as such ought to come together to fight against their oppression.³¹¹ The term Hispanic refers more or less to people south of the United States, and was designated by the census bureau in 1980, although some of the

³⁰⁹ Ibid., p. 365.

³¹⁰ I suppose in her view also, if a person is not labeled as such (because they are passing), there would be no need for racial identity.

³¹¹ This has some similarities with Haslanger’s view. When there are matters of justice, what is important is how the society racializes (labels) one and not what we identify with.

people, who are labeled as such, do not like the term used to describe them.³¹²

LaBossiere is not alone in his view. Shelby agrees that oppressed people should identify together based on their common oppression or, to put it in LaBossiere's terms, the label that they are given and oppressed in virtue of it. Whether or not we agree with that label is another issue and need not be addressed in fighting oppression. For instance, we ought not be bogged down in debates about what is a *real* Black, or Mexican. According to Shelby,

I would urge blacks to identify with each other on the basis of their common oppression and commitment to resisting it; and, from the standpoint of black solidarity, each should be allowed, without molestation, to interpret "blackness" however she or he sees fit (provided the interpretation does not advocate anything immoral and is consistent with the principles and goals of antiracism).³¹³

Shelby rightly argues that once we find ourselves aiming to find the criteria for racial identity and what makes us belong to that race, we are suddenly trapped in the debate about who belongs to our race and who does not. This is evident in the Mexican culture, especially those living in the Borderlands. There is an uncertainty in the Mexican culture, as it might be in first or second generation in any immigrant culture, about how to define itself. There seems to be a diverse array of options available to

³¹² Many Mexicans do not like the label, "Hispanic." They often correct me by saying "I am Mexican, not Latino, not Hispanic." However, the fact that some disagree with the label is not of interest here. As Nucceteli pointed out ethnic group terms can be set any way. LaBossiere would say whatever label we are given (be they the ethnic group terms or else), we ought to unite under that label and not get bogged down in the details. I suppose Haslanger would agree, given her definition of race. Again, LaBossiere and Haslanger would be perfectly content for someone to be labeled "White" in one context and not another. People who are "passing" are not labeled "Black" although they may (ethnically) identify with being Black.

³¹³ Shelby, *Foundations of Black Solidarity*, p. 254.

them to define themselves by.³¹⁴

According to Shelby, the racialist³¹⁵ conception of race is bad for identity because (1) it only allows “pure blacks” in or (2) promotes interracial marriages merely to increase the number of people who ought to identify as blacks. Both of which are bad.³¹⁶ He goes further and says that, racial identity is bad all together for several reasons; “First, black people would inevitably become bogged down, as they often have, by disagreements over what constitutes and who possesses an ‘authentic’ black identity.”³¹⁷ Although Shelby is talking about Blacks only, this question can be asked of all people of all races. One would wonder under what religion, culture, living environment, styles, etc., we should base our racial identities. Trying to figure out what we should unite under, gets us bogged down and we lose sight of our goal.³¹⁸ Often times I hear sentiments about who is a real Iranian, Mexican, African, etc., when these groups are trying to identify the members of their groups. As mentioned earlier, many people identify with a group based on ethnicity and not really race. Shelby does not make such a distinction between racial or ethnic identity.

Second, Shelby warns us against racial identify under a single culture; “class differences among blacks will complicate any attempt to sustain a common black

³¹⁴ I should note that the identity issue has been one of the issues in the Hispanic culture since the Spaniard’s conquest and many still struggle with that.

³¹⁵ Racialism is the view, “that there are heritable characteristics, possessed by members of our species, that allow us to divide them into a small set of races, in such a way that all members of these races share certain traits and tendencies with each other that they do not share with members of any other race.” See, Kwame Anthony Appiah, “Racisms,” in *Anatomy of Racism*, edited by David Theo Goldberg (Minnesota: University of Minnesota Press, 1990), p. 5.

³¹⁶ Shelby, *Foundations of Black Solidarity*, p. 245.

³¹⁷ *Ibid.*, p. 249

³¹⁸ The same kind of worries was addressed when talking about what divided the feminist movement and it has often been said that it was white women’s disagreements on issues such as abortion that made us lose sight of our goal and get bogged down on the details.

ethnic or cultural identity.”³¹⁹ Class is one of the most powerful dividing elements in a capitalist society and it is also often defining of one’s culture and identification but that is not strictly related to race. I mentioned earlier in this chapter that many Mexicans consider themselves White, not because they are racialized by society as “White,” nor is it because they are indeed light-skinned but because they identify race with class. Further, as Shelby points out, there could be many different races within a class, which does not necessarily give them a unified racial identity but class does divide up groups. So, “cultural identity...is not necessary for the success of emancipatory project” but it could be a dividing force between people of a race.³²⁰ What we hope for is to end oppression of a group and preserve a culture, although some might argue that to end one’s oppression might require their cultural acceptance. However, a group that is divided and broken cannot fight to end oppression.

Lastly, what it would require to have group identity causes friction between different genders; “the requirement of a common black identity would surely aggravate the antagonism between black men and women over the meaning of blackness as it relates to gender.”³²¹ Just as in the majority of cultures, Black identity has been defined by men, but that is not how a group is racialized in the society at large. The society at large races a group. Shelby is concerned that more often than not (Black) men do not concern themselves by the needs and concerns of (Black) women.

³¹⁹ Shelby, *Foundations of Black Solidarity*, p. 250.

³²⁰ *Ibid.*, p. 250.

³²¹ *Ibid.*, p. 250.

Consequently, Black women as many women of color, are “at the intersection of racial and gender oppression.”³²² Particularly, Black women, Shelby notes, are in a tough place in the society. If they speak of issues such as domestic violence or rape, they are scrutinized by their group as confirming the stereotypes of Black men in the society and keeping the men in their oppressed position. So, the women are often silenced and their issues ignored.

It is perhaps obvious that all people who suffer racial oppression regardless of their culture, class, or gender are interested to end it. The uniting force is not necessarily racial identity because as Shelby too recognizes, the concept “Black” is a changing concept, “varying with who is interpreting it, their motives for using the notion, and the social circumstances under which they employ it”, as does Haslanger.³²³ We need to be united under the common oppression, which too is congruent with Haslanger’s theory of race.

In Conclusion

Race is complicated, ever-changing and evolving. We used to think that if one simply shares genes with a particular group of people, then one belongs to that race. However, we have learned that although the oppressed might have a goal to achieve and strive for ending their oppression, people within a race are as diverse as people get. They might, or might not, share some common goal, they might, or might not, share the language, culture, or even ancestry with the racial group that they have been

³²² Ibid., p. 251.

³²³ Ibid., p. 254.

categorized, nor might they share common blood with them.³²⁴ According to W. E. B. Du Bois “[A race] is a vast family of human beings, generally of common blood and language, always of common history, traditions and impulses, who are both voluntarily and involuntarily striving together for the accomplishment of certain more or less vividly conceived ideals of life.”³²⁵ There are too many elements at work here. We might use each of the above criteria mentioned to racialize people and put them into groups. Race is something that is assigned by the society to a group of people because they look, dress, act a certain way or because they are from a particular part of the world that generally associates with their physical appearance. So, I believe race is a social phenomenon that changes as the culture changes.

³²⁴ There are certainly many examples of people who do not share language, culture, or even interest with the people that their society often assigns them with. Many second-generation children of the immigrants do not speak their parents’ language nor do they identify with their culture. Often time this is due to the fact that their parents do not “fit in” and by being different from them, they expect to be a better fit in their new world.

³²⁵ W. E. B. Du Bois, “The Conservation of Races,” in *The Seventh Son: The Thought and Writings of W. E. B. Du Bois*, vol. 1, edited by Julius Lester (New York: Vintage, 1971), p. 178; emphasis added.

Six

Ending Racial Oppression

In the last four chapters, I have discussed oppression, the capabilities approach, rights, and race. In this chapter, I will discuss racial oppression and make suggestions on ending racial oppression, within the theoretical framework established in the previous chapters. Specifically, I will discuss typical harms of oppression and give some recommendations as to what can be done in order to end racial oppression, some of which go beyond the construct of rights. In my discussion, I will address the oppression, or its lack, of those who are racially “passing”. I will argue that those who are passing, although they benefit by passing, they too are victims of racial oppression. However, it is mainly internally inflicted.

The definition of race that I endorse is Sally Haslanger’s, which is,

A group is *racialized* iff_{df} its members are socially positioned as *subordinate or privileged* along some dimension (economic, political, legal, social, etc.), and the group is ‘marked’ as a target for this treatment by observed or imagined bodily features presumed to be evidence of ancestral links to a certain geographical region.³²⁶

In this view of race, people who are passing (as White), for all intents and purposes, are White. Traditionally, if someone is genetically connected to a race, regardless of his or her appearance, he or she belongs to that race. On this definition of race, if someone is socially classified to be Black because she looks Black, even if she is not traditionally Black (say if she is a dark-skinned individual from India), she is Black. That is, if she suffers the same disadvantage as all the Blacks. On the other hand, if

³²⁶ Haslanger, p. 162. First emphasis is original and second one is added.

someone has a Black ancestor, but he or she looks White and is “passing as White”, then he or she is not Black, but rather, is White. She or he benefits from her appearance and racialization. Although she might also suffer some harms of oppression, socially, she benefits from the advantages of being racialized as White. As I discuss the typical harms of oppression, I discuss the case of those who are passing.

Typical Harms of Racial Oppression

Because harm is the normative criterion of oppression, racial oppression has to include some kind of harm, which is, in my view, violations of one’s capabilities. Typical harms of racial oppression are violence, economic deprivation, and the harmful consequences of stereotyping. These harms are not rendered internally (voluntarily), but rather, they are externally applied. These harms are inflicted on the individuals in virtue of being members of a particular racial group. Group membership can be voluntary or involuntary. We are non-voluntary members of a group when we do not voluntarily choose whether or not we are members. Necessarily, membership in a voluntary group is a matter of our voluntary choice. According to Cudd, “members of voluntary social groups share joint commitments or joint projects. The members of a nonvoluntary social group share social penalties and rewards consequent on their being so grouped.”³²⁷ Members of a *racial* group, as discussed in the last chapter, do not necessarily share a project, history, religion, etc.

³²⁷ Cudd, *Analyzing oppression*, p. 41.

They instead are bound by their common oppression or common benefits gained from the membership in that group – which, according to Cudd, makes race membership a non-voluntary one.

Furthermore, we are sometimes racially categorized into a group that we might not racially identify with. I live in a community that often classifies me as Mexican-American. In my view, Mexican-American is not only a nationality or ethnicity, it is also a race – it entails disadvantage. In our society the term “Mexican-American” refers to a particular race because we use it this way and in my view of race, there is a pragmatic element. That is, we treat Mexican-Americans more like African-Americans, a race, than like Irish Americans, an ethnicity. Race is a category of disadvantage or privilege, while ethnicity does not connote hierarchy. Although Haslanger does not discuss Mexican Americans, I believe that it is congruent with her view. Mexican Whites are not classified as racially White in our society. However, because race is a changing concept, it is very likely that in not so distant future, Mexican Whites would no longer be racialized as “Mexican White” but rather White, as Italians or Irish have been for some time. On the other hand, one can belong to one race in one society and not in another. For instance, a very dark skinned woman from Senegal once told me that I was really White and in her country I would be classified as racially White. With my Middle-Eastern background, dark brown eyes and black hair, I am not likely to be racialized in the United States as “White.”

Since we live in a highly racialized society, being categorized as a member of a racial group has both benefits and penalties. The oppressed face many harmful

situations, including financial, emotional, or physical. I will consider the three typical harms of racial oppression; violence, economic deprivation, and stereotyping. Each of these harms could be externally (involuntarily) or internally (voluntarily) inflicted. The voluntary inflictions of harm on oneself is the most subtle case of oppression and the most difficult to detect and fight against.

Violence

As mentioned in chapter two, Iris Young gives us five faces of oppression, one of which is violence. Victims of violence, “suffer the oppression of systematic and legitimate violence. The members of some groups live with the knowledge that they must fear random, unprovoked attacks on their persons or property, which have no other motive but to damage, humiliate, or destroy the person.”³²⁸ The examples are numerous. I have recently come across a book written by a Holocaust survivor, David Faber.³²⁹ The stories are heart-wrenching. The Nazi officers randomly, without provocations, abused, beat, tortured and killed Jews, gypsies, homosexuals, and the handicapped. Violence is often used as a very powerful tool over the oppressed. Faber, who was in his teenage years during Holocaust, lived through watching his sisters, brother, mother and father killed, for no other reason than the fact they were Jews. His mother and sisters were shot when the Nazi officers ran through the building, going floor to floor, shooting everyone in the building. He survived the

³²⁸ Young, *Five Faces of Oppression*, p. 287.

³²⁹ David Faber, *Because of Romek: A Holocaust Survivor's Memoir* (California: Vincent Press Publishing Company, 2004).

shooting that day because he was hiding.

In the contemporary United States, Blacks, women, or homosexuals are all victims of unprovoked violence. Many fear unprovoked attacks on their individual persons. Blacks are harassed by the law enforcement, killed in the hands of racists as in the case of James Byrd or are victims of emotional violence through media and the stereotypes against them. Women, regardless of their race or social status, fear being attacked, battered, humiliated or raped, even by one's acquaintances. Mary Koss's research showed that 85% of rapes are committed by acquaintances of the victims. Women are battered in the hands of their lovers, or are humiliated in person or through media's presentation of them.³³⁰ Homosexuals are also not safe from violence, harassment, beatings, or humiliation. Mathew Shepard is a highly publicized case of a young homosexual University of Wyoming student who was beaten and tied to a fence post while he took his last breaths.

Such scenarios are obvious cases of violence. Their victimhood is unmistakably inflicted on them by external forces, of which the resistance is either futile or is near impossible. Jews were physically forced (through horrendous violence) to conform or else face death. In contemporary society, homosexuals seem to be on the same boat as the Jews were during the Holocaust. The case of women and Blacks is a bit more subtle. Blacks and women become voluntary victims of violence, each perhaps in different ways and for different reasons. Many women stay in both emotionally and

³³⁰ Catharine MacKinnon and Andrea Dworkin have argued against violent pornography because they argue that it mixes love and violence, which in turn normalizes violence and romance for the viewers and promotes violence on women. For the effects of porn and violence on women, see Andrea Dworkin and Catharine A. MacKinnon, *In Harm's Way: The Pornography Civil Rights Hearings* (Massachusetts: Harvard University Press, 1998).

physically abusive relationships and claim it is their own choice to remain in those relationships.³³¹ This is violence and it is voluntary. Women often blame themselves for the violence they receive. Some believe that if they were not a certain way, they would not be abused. In my view, this is a case of psychological oppression.³³²

Consider the case of Hispanic women. In the Hispanic *machismo* culture, some women claim that they *want* men to occasionally “slap them around” because that is how they show their love. The man, who *really* cares, would occasionally hit his wife. Women seek men who would hit them at times, because they believe this is the most vivid way that men show their affection.

Accepting violence as a part of one’s life has grave implications on how we choose to conduct our lives. Blacks often accept the fact that their lives involve violence, although they might blame themselves for the violence inflicted on them.

Economic Oppression

One of the main components of the Civil Rights Act of 1964 made employment discrimination, based on race and sex, unlawful. Discrimination in the case of employment keeps people from holding any job but mostly, prestigious jobs. If we, as women or any other minority, are unable to find meaningful employment, we have

³³¹ A grandmother I know has not been able to be a part of her children or grandchildren’s lives because her husband forbids her to do so. She now claims that it is *her* decision to not be a part of things and he no longer threatens her. I suppose that the cycle is complete. She has internalized his expectations. Whether she knows it or not, she fears him and his verbal abuse. Her children have watched him rape her, beat her, humiliate her, and now, she no longer needs any external abuse to keep her in her oppressive situation.

³³² Since in my view oppression does not entail coercion, it is consistent with my view to say something is voluntary and it is also oppressive.

little power in society, be it in the public or private realm. If a woman is unable to make a living on her own, it is hard to leave an abusive relationship. If she gains the courage to leave, there is little she could do to make a viable life for herself and possibly her children. With little or no income, we are also unable to politically do much to change the laws.

Although there are laws against employment discrimination, it does not protect everyone at all times. Carol Pateman warned us about the lack of social justice, even when there are laws protecting all legal employees. Migrant workers are a legal work force in the United States who is victim of economic oppression. They are paid very little and live under very harsh conditions.³³³ Often they have to pay a great sum of money to acquire work-permits and travel to the United States to work. They do it because they believe their income would help them pay for it. However, when they arrive, their contracts are often broken and they are not paid the amount they were promised. They do not have significant access to justice when they are overworked, fired without justification, or have their job contracts violated. To approach law enforcement and the courts would jeopardize their future opportunities as migrant workers. Generally, Mexican workers, even with those with work permits, are unable to speak English and they are both geographically and socially isolated, so there is not much they can do if they are unjustly treated.³³⁴ If they attempt to get legal help, they

³³³ Here I speak of Mexicans that are in the United States on H-2B visas. H-2B visas are given for non-agricultural work (forestry, hotel workers, highway workers, etc.). There were 89,000 H-2B visas given in 2005, which 75% were from Mexico (See, *Close to Slavery*, p. 5).

³³⁴ *Close to Slavery*, p. 31.

risk losing their jobs.³³⁵ This is a clear case of a minority racial group being economically taken advantage of for the benefit of others. However, they are not the only group who are victims of economic oppression.

Blacks and Native Americans, also suffer economic oppression. However, their case is much more subtle. Their situation is the result of years of “training” in our society. Economic oppression can also be voluntary, but indirectly so. Blacks and Native Americans mostly live in poorer neighborhoods, where their education is not well-funded. They do not acquire skills (including self-esteem) to attend college to become professionals or improve their quality of life one way or another.³³⁶ They experience society’s image of them and make it their own. They internalize the social expectations of them and become their own oppressors. In essence, they *self-stereotype*.

In the second chapter, I referred to Professor X, a professor at the University of Texas – Pan American, whose father encouraged her to become a secretary after high school, believing it to be a good job for a Mexican woman. As it turned out, she did not. However, this is not often the case. We do what is expected of us and that is how oppression continues from one generation to another. Stereotyping and also self-stereotyping plays a huge factor in the continuing oppression of a group.

³³⁵ In the last chapter, I mentioned that Mexican is not a race but a nationality. However, as used in the United States, we refer to the “brown people immediately south of the border” as “Mexicans.” So, for our purposes here, I treat the term “Mexican” as a racial term. Although I do not use Asians as an example here, the term “Asian” is also not a racial term but it designates a group, which ironically, does not include me, although Iran is certainly in Asia. So, there are some racial terms that refer to people in a geographic area but they are intended to designate a race.

³³⁶ Thomas J. Kane, *Race, College Attendance, and College Completion*, A published report by Brookings Institution, September 1994.

Stereotyping

Research shows that stereotyping a group has significant impact on the way the individuals within the group understand themselves. Both negative and positive stereotyping can have negative effects. In several researches performed by John T. Jost and Mehzarin R. Banaji, “stereotyping emerged as a fairly unambiguously negative force within social relations characterized by power differentials – it contributes to control, constraint, distortion, domination and false consciousness.”³³⁷ This control is not physical. It is implanted on the minds of the people who are stereotyped. Jost and Banaji add, “Those with power can control ideas, beliefs, and stereotypes in the same way they control other social and material resources and can thereby instill a ‘false consciousness’ in the powerless such that the powerless become complicit in their own disadvantage.”³³⁸ The powerless accept their own oppression and become their own oppressors.³³⁹ Psychologists have conducted numerous researches behind self-oppression. Those who are negatively stereotyped in society internalize the stereotypes and their negative mindset becomes a limiting factor in the ways they conduct their lives.

According to research done by Katherine J. Reynolds, et al., stereotyping is a

³³⁷ John T. Jost, and Mehzarin R. Banaji, “The Role of Stereotyping in System-Justification and the production of false-consciousness,” in *British Journal of Social Psychology*, vol. 33 (1), March 1994. Referenced in Kathrine J. Reynolds, Penelope J. Oakes, S. Alexander Haslam, Mark A. Nolan, and Larissa Dolnik, “Responses to Powerlessness: Stereotyping as an Instrument of Social Conflict,” in *Group Dynamics: Theory, Research, and Practice*, vol. 4, 2000. p. 276.

³³⁸ Jost and Banaji reference in Reynolds, p. 276.

³³⁹ As Cudd points out, “It is not that they [the psychologically oppressed] will prefer oppression to justice, or subordination to equality, rather they will prefer the kinds of social roles that tend to subordinate them, make them less able to choose, or give them fewer choices to make.” See *Analyzing Oppression*, p. 181.

social phenomenon that leads to self-stereotyping. For instance, I have heard women on the radio strongly argue against a woman president, especially during the time of war. Their argument is that we need a strong president during war, that a woman cannot be as strong as a man in handling such situations. That is a case of women self-stereotyping about their abilities or abilities of women in general.

Just about every group suffers or benefits from social stereotypes. These harms and benefits are multi-dimensional. Consider the stereotypes surrounding Blacks and Mexicans in the United States. Blacks are stereotyped as being on drugs, violent criminals, poor, uneducated, lazy, on welfare, etc. When their children cause trouble, we often categorize it as an extension of media's stereotypes of them.³⁴⁰ These stereotypes, as psychologists have shown, negatively effect people's perceptions of themselves and how they see their roles in society. Once we see our roles, we are drawn to act that way. Many gender scholars have argued that the characteristics typically assigned to men and women are socially learned. We are socialized since the day we are born, into our expected roles. Considering there are no essential, genetic characteristics that equate with race, as Mills argues, the development of race is also socialized. So, if a race is assumed and socialized to hold certain characteristics, then, they will accept them as a part of who they are, whether

³⁴⁰ The most disturbing form of stereotyping currently in the media is against the illegal immigrants in the United States. There are millions of illegals in the U.S. who are hardworking men, women and sometimes their children who contribute in a great extent to our economy. However, there are also some in that population, as it is in any other group or population who are criminals. But in today's media any crime committed by the illegals is an opportunity to point out to the American population that illegals are criminal and we ought to stop illegal immigration. Perhaps illegal immigration is a problem but it does not follow that illegal immigration is the reason for horrible crimes done in the United States.

that benefits them or not, it is another debate.

Stereotyping affects a group in different ways. Judith A. Howard points out that stereotypes also affect the way we react to misfortunes of some groups that are negatively stereotyped; “Stereotypes influence our reaction to members of these groups. Those who subscribe to the stereotypes of young black men as aggressive and hostile, for example, may attribute the unemployment of a particular young black man to his presumed hostile disposition, ignoring current economic circumstances.”³⁴¹ Consequently, we see no reason to address the institutional oppression that Black people face but rather we blame them as having a violent culture, which is in opposition to the “civilized and calm” European one. I often experience these kinds of sentiments about the Mexicans as well.

Mexicans are in many ways similarly stereotyped. They are often stereotyped as having lots of children, poor, dirty, and involved with gangs and drugs. If they are wealthy, they are believed to be drug-dealers. They are seen as uneducated but, unlike Blacks, some are hard-working, but most are lazy.³⁴² In schools, the students are told Hispanics (which include people from Mexico) are bad at math, will only be able to do hard labor, they are told not to worry too much about good grades in high schools because “you won’t be going to college; spend your energy learning a trade so you can get a job”, and so on. The students internalize these expectations of inferiority in

³⁴¹ Judith A. Howard, “The ‘Normal’ Victim: The Effects of Gender Stereotypes on Reactions to Victims,” in *Social Psychology Quarterly*, vol. 47, no. 3 (September 1984), p. 271.

³⁴² *Stereotypes in Advertising*: <http://www.trivia-library.com/a/history-of-advertising-mexican-stereotypes-in-advertising.htm>.

the society and often live up to them (voluntary oppression).³⁴³ Naturally, many of them do not nurture their intellectual abilities. Consequently, education will not play a role in their future. This is a vicious circle.³⁴⁴ They internalize these stereotypes (social expectations of them) and act accordingly. Social stereotypes are a huge determining factor as to what one would expect of one's life prospects. They do not choose careers or jobs that would lead them to prestigious positions.³⁴⁵ Hence, they become voluntary victims of oppression, through self-stereotyping. These harms are seen as an extension of who they are and not the social structure that has made their world such that they are forced to adopt the preferences that they have.

These three harms of oppression are not necessarily mutually exclusive. Each could happen by itself or is the result of another. For instance, violence and economic oppression could lead to self-stereotyping. On the other hand, self-stereotyping could lead to economic oppression.

³⁴³ Many anecdotes from students who graduate from high schools in the Rio Grande Valley area in South Texas do not believe that they can do much with their lives besides finding blue collar jobs.

³⁴⁴ I am often struck by the fact that many of our students in South Texas College, who are over 95% Hispanics, do not believe that they are capable of earning degrees beyond an associate degree. See the following website for our demographics;

<http://www.southtexascollege.edu/about/factsheet/pdf/fact07.pdf>.

³⁴⁵ I do not claim that all Mexicans or Blacks will end up in disadvantaged positions. Often classism is factored in to the question of what one can do in life and what one's opportunities are. Many Mexicans, who grow up in South Texas in the lower Rio Grande valley, have not personally been victims of racial discrimination until they leave the Rio Grande Valley of South Texas, because Hispanics make over 85% of the population. However, they are often victims of classism. So along with the society-wide racism and classism, they are in a terrible place. Their women are again victimized by the Hispanic *machismo* culture.

Passing (or not) and Oppression

The concept of passing generally refers to a situation where an individual is able to conduct its affairs as members of another group. For instance, some Blacks in the early 20th century were able to pass and conduct their lives as Whites in order to overcome the discriminations they faced. Traditionally we understand someone to be Black if she has among her biological ancestors at least one person who is descended from (sub-Saharan) Africa. In this view people who are passing, since they share some ancestry with Blacks, they too are Black. Suppose Gina who is very fair, has ancestors who are all, but 1/8 are White European. In our traditional classification of her, Gina is Black. This is not the case if we accept Haslanger's definition.

Haslanger's definition of race includes a pragmatic element. She argues that we are racially categorized (racialized) based on the physical appearance that we share with the members of a group who are historically from a particular geographic area and are harmed or benefited from this classification. In this definition, Gina is White because she looks white and does not suffer the oppression that Blacks do. On the other hand, if I am racialized as Hispanic in my community of 85-90% Mexicans and suffer the consequences, then I am Hispanic.

Those who are "passing" are also racialized but they are racialized as the dominant group and not the group that they are traditionally classified. Our definition challenges the traditional understanding of race and racial classification. It would be meaningless to even talk about passing people because people belong to the race that society racializes them to be, based on our definition and not the traditional way. So,

it would not make sense to say that Gina is passing. That would assume that she is one race but is trying to conduct her life as another. Based on our definition, Gina only has one race, the one that she is racialized as – the one she conduct her life within her society and is advantaged or disadvantaged by, namely, White. That does not mean, however, that Gina cannot maintain a Black ethnicity. So, I use the word “passing” to refer to the phenomenon where someone we categorized as Black (or another race) and now makes a conscious, successful effort to be categorized as White.

Although people who are passing are not Black, Hispanic, Arab, etc., they might self-identify with that minority group. In the view of race I have presented here, race is a designation one is given by the society, given one’s appearance and general geographical designation of a particular people. So, when someone is passing, although they might “racially” identify with the original designation of their group, they are mistaken. If I can pass as a Mexican and live my life accordingly, then I no longer am Persian, unless my society categorizes me as such. If I suffer the harms that they do (and I often do living among them), and my community has racialized me as Hispanics, then I am just that, Hispanic. However, I might identify with the Hispanic race but I do not ethnically belong to that group, if I am culturally Iranian. Many Iranians living in the Rio Grande Valley in South Texas speak Spanish, are married to Mexicans, eat mostly Mexican foods, and seem to be a better fit with the Mexican community than Iranian. Although they pass as Mexicans, they are ethnically identifying as Iranians or Persians.

Because most of the racialization of people is done in order to classify, categorize or stereotype them, whether a person is passing or not, the negative or positive stereotypes will affect them. If someone identifies with the oppressed race, whether or not they are passing, this identification can and often does lead to voluntary oppression. Those who are passing could be victims of psychological oppression due to stereotyping, the traditional understanding of race, and their own racial or ethnic identification. They are not victims of external forces of oppression but they internalize the society's *traditional* categorization of their "race", and the stereotypes that go along with it. The psychologically oppressed internalize the traditional understanding of race along with all the historical and current negative stereotypes that go along with it, and become their own oppressors.

Anthony Appiah reminds us of those who disagree with the practice of passing altogether. They believe it to be a moral offense.³⁴⁶ Considering that race is a changing concept, and we are *racialized* in the society, I do not believe there is a moral offense in the act of passing.³⁴⁷ There are no essential characteristics of a race that would determine the race of an individual. One's race does not determine any facts about an individual's abilities and so, identifying with a race that one is traditionally classified as, is unimportant. So, there is no moral offense in being racialized one way or another. In my view of race no one is really passing. People belong to the race that they are racialized to belong. No one is pretending to be who he or she is not. Gina might not identify with her White race, although she is

³⁴⁶ Appiah, *But Would That Still Be Me?*, p. 498.

³⁴⁷ Appiah agrees.

racialized as such. My youngest brother does not identify with Iranian race, although he likes the food and speaks the language. He does not identify with the Iranian holidays and denies many of the cultural norms. Although the society is always going to racialize him as the other, he does not identify with that racialization.

Gina lives in a place where race matters a great deal. As Charles Mills puts it we have a vertical race system in the United States. That is, there is a close correlation between one's race and the likelihood of one's social and economic status.³⁴⁸ In such society it is rational to hide one's race if the racial designations works against one's social status. If Gina is racialized as Black and Blacks are discriminated against, to the extent that they were before the Civil Rights Movement Act of 1964, then it is rational and to her benefit to alter her race. However, if Gina internalizes her social designation and the negative stereotypes, she could be victim of self-stereotyping.

There is one way we might come to interpret the criticism of passing people. Suppose a society that believes Blacks lack the intellectual ability required to become engineers. If Gina, being an engineer, reveals her race, she could help minimize the stereotypes but on the other hand she could harm her own social status if her race is known. Or she might be the token Black individual in her social group.

Whichever is the case, she suffers from the negative stereotypes against her racial group. According to Claude M. Steele, widespread negative stereotypes against one's group lead to stereotype threat. He contends, "the existence of such stereotypes

³⁴⁸ Mills, *But What Are We Really?*, p. 43.

means that anything one does or any of the one's features that conform to it make the stereotype more plausible as a self-characterization in the eyes of others, and perhaps even in one's own eyes."³⁴⁹ That is those who are negatively (or positively) stereotyped are always under the threat of being watched to see if they indeed conform to the stereotypes. For instance, people often argue that women enjoy cooking, cleaning and taking care of people. Many women, although they prefer to have home-made food, and caring for others, refrain from doing so because they do not want the negative stereotypes that comes with that. Women often feel as though they live under a microscope. The whole society is watching. Our most miniscule acts that correspond to the stereotypes further the negative stereotypes against us. If we cannot get a job, it is because we do not want to work. It is interpreted as our desire to stay home and be housewives. If we are forced to stay home to care for our sick children, again, we are only conforming to the stereotypes, which keeps us in the socially inferior situation. Women are not the only group who suffers stereotype threat. All the members of other groups who are negatively stereotyped are. Suppose a Black teen who is a good runner, he might not aim at becoming a runner because he would prefer to be treated as an individual free from the stereotypes of the society. He might limit his options because his society stereotypes Blacks as being good at one thing, sports.

Those who are passing or tokens are also subject to stereotype threat and also self-shame even if they are advantaged by their exceptional status. Internalizing the

³⁴⁹ Claude M. Steele & Joshua Aronson, "Stereotype Threat and the Intellectual Test Performance of African Americans," in *Journal of Personality and Social Psychology*, vol. 69, no. 5, 1995, p. 797.

inferior social status, we feel ashamed to be of that kind of person.³⁵⁰ According to Sandra Lee Bartky, “many oppressed persons come to regard themselves as uniquely unable to satisfy normal criteria of psychological health or moral adequacy. To believe that my inferiority is a function of the kind of person I am may make me ashamed of being of *this* kind.”³⁵¹ Self-shame is certainly a hindrance to one’s life options. It leads to low self-esteem and as result limiting one’s development of capabilities, which as a result, perpetuates the stereotypes.³⁵²

Both self-shame and stereotype threat have many bad consequences. First, it is limiting, it thwarts the development of one’s capabilities, and aims to mold people in shapes that they might not fit. Second, stereotype threat keeps some minorities in the position of power, such as United States Supreme Court Justice Clarence Thomas, to turn their back to the people who look to them to address their issues. Justice Thomas has denounced the welfare system and argued for its abolition, which is not a very considerate position given his mother was living in public housing during his senate confirmation hearing.³⁵³ Justice Thomas seems to be doing all he can to avoid stereotype threat, by going against the stereotypes of Blacks being on welfare. More specifically, Justice Thomas is trying to avoid, what Steele calls, “immediate situational threat” that is derived from all of the negative stereotypes against a person.

Immediate situational threat is the threat of the possibility of being judged and

³⁵⁰ When my daughter, who has blue eyes, was born, an Iranian friend told me that I should be glad that my daughter is White because White kids are smarter, and more polite than non-white kids. She is not White, neither am I. Her statement is pregnant with self-shame.

³⁵¹ Bartky, *Femininity and Domination*, p. 30. Emphasis is original.

³⁵² As a faculty advisor, I have encountered many Hispanic students who coyly tell me they cannot pick majors that require them to pass Algebra because Hispanics are not good at math.

³⁵³ Senate Confirmation Hearings, September 10, 1991.

treated stereotypically, or of possibly self-fulfilling such a stereotype.” This stereotype threat,

can befall anyone with a group identity about which some negative stereotype exists, and for the person to be threatened in this way he need not even believe the stereotype. He need only know that it stands as a hypothesis about him in situations where the stereotype is relevant.³⁵⁴

Research shows this threat can and (and often does) result in poor performance in intellectual tests. Stereotype or situational threat works in different ways in different people. People either internalize inferiority or blame others for their problems and “underutilized available opportunities”, both of which lead to their second-class status.³⁵⁵ Self-blame could lead to people seeing themselves as not having the capability to succeed, and so they would not even try. I suppose we all suffer from this to some extent. For instance, I have always wanted to run a marathon. I do not believe that it is within my capabilities to do so. So, I have never tried and probably never will. However, this does not hinder my life-options, my quality of life, nor would it leave me in an oppressed social status. But self-blame could lead to low quality of life. If we blame our lack of success on our own inabilities, it would be difficult to recognize and fight against institutional racism. Self-blame is the final and key ingredient in perpetuating oppression.

On the other hand, one can blame others to the extent that one would not take any chances because she believes that she would be kept from succeeding anyway.

³⁵⁴ Steele and Aronson, *Stereotype Threat and the Intellectual Test Performance of African Americans*, p. 798.

³⁵⁵ *Ibid.*, p. 798.

Therefore, she would “underutilize” the resources she has to succeed. A student who had missed about a month of class, during which we had an exam showed up one day and apologized for having missed class. She had been scheduled to work during her class time. In my opinion, she had relinquished all her responsibilities for missing class because *they* scheduled her to work. According to this student, there were other options that she could have pursued but did not. Self-blame and blaming others can both end in situations that diminish one’s abilities, and consequently lower one’s quality of life.

Tokenism and Oppression

Most people do not like to be victims. When discussing women’s oppression, female students often argue that they are not oppressed but they know women who are. However, if they accept their oppression as members of an oppressed group, they often name a powerful woman, who does not suffer the oppression that the rest of the group does in order to show that not everyone in an oppressed group suffers from oppression. Condoleezza Rice, President George Bush’s second term Secretary of State, is common example often used to show that not all women or Blacks are oppressed. She holds a very prestigious position in the government. She is the first Black woman ever to hold this position. Considering the social structure of our society, Rice’s position is not a sign of emergence of equality, but rather she is a token. Tokenism happens when a member of a minority group is represented in the majority group but is given little power. Although Rice’s position is a powerful one,

in reality she has little power. She seems to accomplish very little and is being used as a tool for the government that she represents. She was much more respected as a professor at a prestigious university than as the Secretary of State for the Bush's administration. However, her inclusion in the government was a prudent move for the Bush's Republican administration. She helps secure the illusion that racial oppression is extinct in the United States.

As I will discuss later in this chapter, so long as the oppressed group are represented in government, they will not rebel against their oppression. The government is aware of this. The oppressed group will not *feel* as though reaching higher social levels is impossible but that is merely an appearance of opportunity.³⁵⁶ Condoleezza Rice is merely a token. Most people, especially Blacks, do not typically have the same opportunities that Rice had to get to her level.³⁵⁷ The real life opportunity is not available to kids being raised in the ghettos or those whose parents do not realize the value of education in order to achieve one's life potential.³⁵⁸ There are certainly no laws to keep Blacks or Hispanics from becoming successful, but social justice has not caught up yet.³⁵⁹ There is good reason to believe, given the current societal structures and dominant victim-blaming ideology, it never can. In the

³⁵⁶ Recall the capabilities approach demands that opportunities ought to be real one. People ought to be able to develop their capabilities. Putting it in rights-talk, people ought to be given what is needed to practice the rights that are generated by their capabilities.

³⁵⁷ The majority in the social elite who run this country are White men.

³⁵⁸ About a year ago (in 2006) I met a woman in her early twenties in Oklahoma City whose parents were migrant workers when she was only a child. They took her out of school in Mexico, immigrated to the U. S. and took her around as they went around in the Midwest to find farm jobs. This young woman did not have an education past 4th grade. She spoke fluent English but could not read a word of it. Her parents hoped to keep her and her siblings fed and aimed at teaching her something that she could use to earn a living, namely, working in the fields.

³⁵⁹ Carol Pateman makes such argument in the case of women.

United States, millions of Black children still attend dangerous, impoverished public schools, the majority of their families still live in or near poverty. The probability that a Black male will be murdered or incarcerated is many times that of Whites, and the mere survival of Black citizens is of little interest to the federal government.³⁶⁰ We witnessed this most poignantly in the aftermath of hurricane Katrina disaster. All of this is the injustice of racial oppression in America. All individuals, including Blacks, ought to have the means required to achieve the threshold of functioning. In my view, people, not only, have negative rights, but also positive rights to some opportunities. This implies that if we leave the doors of the universities open to racial minorities, it might not be adequate to get them to see college as a real option – that is, the society has to provide the means for them to reach a level where they realize that they are capable of making a better life for themselves. Education is one way to do so.

Each individual has the right to live in a society that does not degrade or humiliate her or him. Social justice demands that one is not ashamed of one's race, does not suffer the threat of stereotypes and is not intellectually degraded. Stereotype threat and self-shame thwarts one's abilities to develop one's capabilities, which in my view is the violation of one's rights.

³⁶⁰ The government keeps introducing new programs to help the people of color. However, these are often symptom removers and do not really address the oppressive social structure. According to Sandra Van Dyke, if we understand race theory and race within the social and historical perspective in the United States, we are led towards “action that has sapped valuable energies and resources working on fruitless programs.” We need to see the situation of races from an institutional perspective (See, Van Dyke, “The Evaluation of Race Theory: A Perspective,” in *Journal of Black Studies*, vol. 24, no. 1, September, 1993, p. 82-83). She further explains, “Little, if any, money is spent by public or private agencies for economic development of create infrastructures within African communities that would be self-sustaining and would allow for community development. Because of their deleterious effects on African people, culturally, politically, and economically these theories cannot offer any viable hope for liberation from the constant and continuing pressures of a racist society” (Van Dyke, p. 83).

Rights as Weapons Against Racial Oppression

Skin color is used to rationalize all sorts of harms on a group of people. Harm is violation of one's capabilities. In my view, capabilities generate rights. Violation of one's development of capabilities is violation of one's rights. Negative self-stereotyping can and often does lead to not attempting to develop one's capabilities. If Hispanics really believe the stereotype that they are not capable of doing math, then they will limit their life options. For instance, they will not choose majors in college that requires them to pass Algebra. If they have the capability to do it, then they ought to have the right to do so as well. One can have one's rights violated (capabilities destroyed), not only by physical force but also by years of "training." Stereotyping through media, poor education, lack of health care or other services, all in all, leads to one's negative self-image, and as I mentioned earlier, that is oppressive.

Stereotyping keeps people from developing their capabilities and in doing so violates their rights. So, stereotyping violates one's rights. For instance, if we have the capability of having control over our political environment, which virtually all people do, then we ought to have the right to effectively participate in "political choices that govern one's life [and have] the right of political participation, protection of free speech and association."³⁶¹ In order to have these rights, we ought to educate people and give the *real* options in the political realm. Blacks have not been given this opportunity and in recent years there have been many examples of violation of their rights. That is unjust.

³⁶¹ Nussbaum, *Women and Human Development*, p. 80.

We have the right not to be emotionally or physically violated. Humans are beings with inherent value with full worth and dignity granted to each individual and each individual deserves to live lives free from violence and abuse. Governments ought to protect each citizen's development of capabilities, which lead to human flourishing.³⁶² That would include the fight against individual's violation of one's own rights. Through self-stereotyping, we can come to believe that we do not have certain capabilities and consequently we do not aim at developing them. If so, then (by my definition) we violate our own rights. Women who "volunteer" to undergo female genital mutilation are violating their own rights that stem from the capability of bodily integrity. There are numerous reasons why women "choose" to undergo the procedure. One might self-stereotype, as her society does, and that is, uncircumcised women are dirty and sexually promiscuous. In fear of both, they choose to have their bodily integrity, or even health, violated. In doing so, they cause the violation of their own rights. Governments cannot fight against all kinds of cultural practices, social norms, or even religious practices. However, through adequate education, providing information, and development of one's capabilities to the threshold of functioning, one would be less likely to make choices that violate, thwart, or destroy one's own capabilities and hence rights.

Beyond Rights

Most agree that all people deserve to enjoy their rights and have the right not

³⁶² As mentioned, we ought not protect those capabilities who violate the liberty principle, although violating others' freedom and liberties might be some individual's idea of a good life.

to be unnecessarily harmed. However, having rights is not enough to overcome the harms that oppression has caused on the mind of the oppressed and stop those who are doing the oppressing. More needs to be done. Research has shown that although it is true that stereotyping leads to domination of a group, stereotyping could also help them out of the oppressive situation. Self-stereotyping can be the force that helps the oppressed out of the domination of the power group but the matter is not so simple. Reynolds, et al. write, “stereotyping process can work for social change and resistance to domination just as much as it can contribute to the maintenance of such domination. This is because stereotypes represent context-specific group identities and the current goals and values of group members.”³⁶³ Groups can develop an inner-group dynamic that helps them break out of their oppression.³⁶⁴ A great example of this is the civil rights movement during the time of segregation. Blacks realized that their oppressive situation is not going to change as long as they sit around and wait for it. So, they took united action. They encouraged one another to fight against their oppression. Powerful role models such as Martin Luther King set great examples for the people to follow in their fight. Virtually every member of that group, regardless of gender, class, socio-economic status, or religion, stood in solidarity. They developed a collective identity regardless of their individuality, which made their demands more immediately heard.

Groups are more likely to take collective action when they see no hope for

³⁶³ Reynolds et. al., p. 277.

³⁶⁴ Although Reynolds et al., do not make the distinction between voluntary and involuntary oppression, I believe their argument applies in both cases.

their members to step up the social ladder or to get out of their oppressive situation.

The research done by Reynolds and her colleagues concluded,

In cases in which the group boundary was open [that is, if people from the oppressed group could enter the world of the powerful], we observed acceptance and stereotype reproduction. However, when the boundaries were firmly closed [as it was during the segregation, especially in the South], participants exhibited a preference for collective protest that represented a strong challenge to the existing status relationship, and this was backed up by creative negative stereotyping of the out-group.... negative stereotypes of the powerful group played some determining role in paving the way for social change.³⁶⁵

This is an extraordinarily important research for diagnosing and understanding oppression in our society and the psychological state of the oppressed minority groups. There are two factors involved in maintaining oppression: (1) whether the oppressed group sees the opportunity for moving from their oppressed situation to the world of powerful; and (2) the stereotypes that the members of the oppressed group collectively hold about the people in power. Both the oppressed and those doing the oppression stereotype one another. I will explore (1) and (2), respectively.

(1) Can the oppressed change their situation and become *real* members of the social elite class?³⁶⁶ As mentioned, currently, there are some minorities in political position of power. According to Reynolds, when the oppressed see the boundaries of the powerful penetrable, they generally do not collectively rebel against their own oppression. There is certainly the appearance of inclusion and equality in our society. The mainstream media, being also ran by the social elite, has made it virtually

³⁶⁵ Reynolds, et al., p. 284.

³⁶⁶ By “real” I mean not as a token but as a serious contributor.

impossible for any dissenting view to be aired and so, many citizens are ill-informed of the injustices that some racial minorities suffer. As a result, although we are far from equality among the races in the United States, many people (even those who belong to the racial minorities) are not aware of it. Again, the social stereotypes against them, causes them to blame themselves for their shortcoming and lower social status in the society.

Hurricane Katrina made government racism very clear to everyone who is aware of the situation. For those of us who live in hurricane-prone cities we are aware that our officials know what to do in order to prepare for the day the big one hits. Because New Orleans sits below sea level, the danger of a disaster is much more than other places. The government had allocated a substantial sum of money for fixing the levees in order to prepare the city for the inevitable before the disaster hit. Only a fraction of that budget was used. In a city where the majority (67%) is Black and 34% live under the federal poverty line, there was not much interest in fixing the levees and making an effective evacuation plan. The majority of White population of the city evacuated but the poor Blacks who lacked transportation or funds, stayed behind and gathered in the Superdome that quickly lost power after the hurricane and became a tragedy of its own.³⁶⁷ Two years later, things have not changed as quickly as one would have hoped. According to a report by *Southern Studies*, out of 116 billion dollars set aside for Katrina, only “less than 30% has gone towards long-term

³⁶⁷ Lee Sustar, *Katrina Exposes Racism*, August 31, 2005. See: www.zmag.org/content/showarticle.cfm?ItemID=8625

rebuilding — and half of that 30% remains unspent.”³⁶⁸ How could this be, given there are still victims who do not have permanent housing? New Orleans rates as one of the worst in the area of criminal justice, public defense, and education; the murder of Blacks is not given the attention it deserves, but that is not all; “In 2004, Louisiana spent \$96,713 to incarcerate each child in detention, and \$4,724 to educate a child in the public schools.”³⁶⁹ Jordan Flaherty argues, “For poor Black kids growing up in New Orleans, the education system functions as a school to prison pipeline.”³⁷⁰ After all this, the fact remains that the Blacks in the United States are not a comprehensive group. They, as a group, are not entirely convinced that their oppression is systematic and planned. This plays a role in their reaction to their social status.

(2) People in disadvantaged positions in the society also stereotype those in power. Unlike during the 1960’s, and perhaps before, many oppressed groups, such as women, Blacks or Hispanics are not convinced that the government treats them as second-class citizens. Some of which might be the result of classism. Some of those belonging to the oppressed group side with the offenders and by doing so divide their group. For instance, people like Justice Thomas, or Secretary Rice, do not belong to a world where many disadvantaged Blacks live. Perhaps there was a time or a place where they experienced poverty, but they no longer belong there. Their loyalties do not appear to be with the people of their race and improving their situation but rather, they have a more personal and political agenda. They do their best to assimilate into

³⁶⁸ Jordan Flaherty, *Two Years Post-Katrina: Racism and Criminal Justice in New Orleans*, August 30th, 2007. See: www.zmag.org/content/showarticle.cfm?ItemID=13655.

³⁶⁹ Ibid.

³⁷⁰ Ibid.

the wealthy White social elite and distance themselves from Blacks, their problems, and their issues. Division within a group often leads to less power in that group which causes slow or little progress or they will quickly face backlash against the progress already made.³⁷¹ Regardless, the way the oppressed stereotype those in positions of power have a lot to do with whether they would act against their own oppression. For instance, as long as women believe that those in power are not against their advancement in society, they will not collectively act to end their oppression. Blacks in the United States are not entirely convinced that their oppression is intentional, planned, and systematic. So, the second criterion for collective social change is not met. Consequently, they do not collectively act in order to end their oppression.

The road to ending racism and racial oppression is a bumpy one. Martin Luther King said that people in power will not give up their powers if not challenged.³⁷² As mentioned, more often than not, racial minority leaders do not challenge the system but rather they assimilate to gain access to power.³⁷³ Appointed U.S. public officials such as Condoleezza Rice, Colin Powell, Alberto Gonzalez, and Clarence Thomas are prime examples. They hold high offices and create an illusion of equality: one that is comforting to the privileged groups, but dangerous and damaging to the oppressed. A society in the grips of these illusions ignores its very real problems with racism. Consequently, we minimize the horrible conditions under

³⁷¹ We saw the division in the feminist movement by women siding with their men in issues that distracted them from their real goals. Also division between women of different races led to the halt of the feminist movement.

³⁷² Martin Luther King, Jr. *Why We Can't Wait* (New York, Penguin Group, 2000), p. 68.

³⁷³ Further, Cudd reminds us collaborating with the oppressors is not resisting oppression. The kind of collaboration with its long-term goals must be considered. Therefore, short-term collaboration might be an essential part of long-term resistance. *Analyzing Oppression*, p. 191-192.

which they live and overlook the social problems that place people in disadvantaged positions. Instead of fixing the system, we ridicule, stereotype and blame the victims.³⁷⁴

There are a few things we can do in order to end racial oppression. The harms of segregation, violence, stereotyping, and economic oppression have been grave. The situation can be changed but it will require much attention. Big inner city schools are mostly segregated and the students receive a poor education. If we are to overcome the effects of self-stereotyping, it is not enough to stop the social stereotypes. Serious intervention needs to be done in order to get individual's capabilities to the threshold of functioning so all individuals could enjoy their rights. Both gender and racial socialization start at a very young age. We are taught our roles, which to some extent define the way we self-identify and realize our abilities or their lack. Therefore, if we are to counter the negative stereotypes in our society, we ought to start with children when they are very young. In order to do this, we ought to take the education of racial minority children seriously and fund their schools better. Education that is based on local economies (local property taxes) might not be enough. It only perpetuates inequalities in capabilities development – poor communities do poorly here, rich

³⁷⁴ Van Dyke points out, “following the Reagan and Bush years, American society is back to blaming the victim as an explanation of inequality.... The race problem does not lie in the characteristics of Africans [Blacks], but in the nature of America society” (p. 78). As the quote suggests, blaming a victim happens when people in the disadvantaged positions are held responsible for their misfortunes without looking at the way the situation is structured to keep them in their position. For instance, when a physically abusive man blames the woman for not doing X or Y to make him *have to* hit her. This is blaming the victim. For more discussion of *blaming the victim*, see William Ryan, *Blaming the Victim* (New York: Vintage Publishers, 1976).

communities do much better.³⁷⁵ More resources should be allocated to encourage minorities' college attendance.

One of the fastest ways that stereotypes are perpetuated is through mass media. There ought to be more effective formal and legal venues through which the media's negative stereotyping can be effectively challenged. When the social elite controls the media, as they do in the United States, it only makes sense that they protect their own status quo. For instance, generally speaking, the citizens of the United States trust that there are no really harmful conspiracies in the government. That is to say, we trust our government. We like to continue this trust and the government is interested to keep the trust of the citizens. However, this trust is not entirely founded. Politicians do often act immorally or even unconstitutionally, but that often goes unheard, especially if injustices are committed against an oppressed group. For instance, there is some evidence that Blacks, in some places, were unjustly kept from voting, in one way or another, both during 2000 and 2004 presidential elections.³⁷⁶ However, the mainstream media did not cover any of them. Those who attempted to bring this to light were victim of negative stereotypes and quieted down. The people who were kept from voting had their capability of political affiliation violated, but it does not end here. Once they are not represented, then their interests are also not represented and their situation will, for the most parts, remains

³⁷⁵ What might be done is to fully nationalize the distribution of funds and the conduct of public education.

³⁷⁶ For the year 2000 presidential elections see <http://unprecedented.org/unprecedentedfirstpage.html> and "Voting Irregularities in Florida during 2000 Presidential Elections," a report by United States Commission on Civil Rights (6/2001). For 2004 problems see Deborah White, "Democracy & Voting – Ohio 2004 as Lesson in What Can Go Wrong," in <http://usliberals.about.com/od/electionreform/a/votingrights1.htm?p=1>, (June 7, 2006).

unchanged. In short, the media plays a huge role in the way we stereotype others or self-stereotype ourselves. The harms that it causes has to be countered, minimized, and fought against.

Our fight to end oppression ought to, not only target the future citizens, but also the children, or adults who are negatively affected by racism and stereotype threats right now. I suggest, difficult as it might seem, we, as a society, ought to aim at reversing the stereotypes and reconstruct capabilities that have been damaged. The restoration of undermined capabilities is our critical task here. Figures such as Martin Luther King play key roles and are still essential in starting the movement in peaceful but radical ways. Groups that aim to empower the oppressed, for instance, “Black Power” groups should enjoy public support, not dismissed and labeled “domestic terrorists.” Education is not a panacea, but it remains our most solidly established institutional force for restoration. Black history month is an example of what has been done in order to reverse the stereotypes against Blacks. While this effort is important, I believe it does not have as much power as one might hope, nor do the events have much audience outside of the Black race, mainly because of the very historical or even current segregation it aims to challenge. An educational approach that derived from the oppressed communities and their experience is what is required. Not a “balance” calculated to shelter white sensibilities, but an open pedagogy of the oppressed ought to be developed. In his book, *Pedagogy of the Oppressed*, Paulo Freire argues,

The oppressor elaborates his theory of action without the people, for he stands against them. Nor can the people—as long as they are

crushed and oppressed, internalizing the image of the oppressor—construct by themselves the theory of their liberating action. Only in the encounter of the people with the revolutionary leader—in their communion, in their praxis—can this theory [a theory of action] be built.³⁷⁷

Hence, revolutionary minority leaders as well as federal support are essential ingredient to ending oppression.

We must ask what can be done to make people's motivations independent of their negative racial identity and help people to develop into strong and ambitious individuals? We ought to re-build people's capabilities that have been destroyed and aim to get everyone to the threshold level of functioning, both mentally and physically. This is not an impossible task. In his book, *Learned Optimism*, Martin Seligman explains the psychology behind optimistic and pessimistic attitudes and expectations.³⁷⁸ These are the attitudes and expectations that can keep people in their oppressive situations. A more positive perception of self would open many possibilities for an individual who might not be there otherwise. I should note that I am not reducing the oppression of racial minorities to an "attitude problem" but rather, if we are to stop racial oppression, it is critical that we undermine the patterns of thought and feeling that produce voluntary oppression. Reducing oppressive patterns of thoughts would be an obvious first step. Only then will we have a reasonable chance in making progress towards ending the oppression of racial minorities.

³⁷⁷ Paulo Freire, *Pedagogy of the Oppressed*, 30th Anniversary Edition, translated by Myra Bergman Ramos (New York: Continuum, 2007), p. 183.

³⁷⁸ Martin E.P. Seligman, *Learned Optimism* (New York: Simon & Schuster Inc., 1990).

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