

# Disability Among Equals

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My task in this paper is to ask what we need to do if we are to construct a society in which people are to be treated as equals, whatever their disability status.<sup>1</sup> I intend to provide a conceptual framework for posing and approaching this question, and to help clarify some policy objectives. My primary reason for taking on this task is that analytical political philosophy seems to have lagged behind social policy on these issues,<sup>2</sup> and the treatment of disability by political philosophers has sometimes seemed insufficiently thought through. I do not deny that there is a great deal of sensitive and important recent work,<sup>3</sup> yet we seem to lack a systematic, plausible approach to the topic. Thus I will attempt to set out the beginnings of an answer to the question of how society should address issues of disability. I seek an answer with credibility both from the point of view of philosophical theory and social policy.

By way of introduction and summary, I shall defend the following claims:

1. Ideally, a good society will meet at least two goals. First it should offer its citizens

genuine opportunities for secure functionings. Second it should be a society of equals in at least the sense that differences between people should be accepted.<sup>4</sup>

2. A person's opportunities in life are determined by three kinds of factor: first, his or her internal resources (Rawlsian natural assets); second, his or her external resources (money, property and so on) and third, the social and material structure of that person's society. In attempting to remedy disadvantage a choice will often need to be made between kinds of action corresponding to these kinds of factor.
3. To be disabled is to be in a position where one's internal resources are impaired and do not provide one with adequate genuine opportunities for secure functioning, given the social and material structure in which one lives, together with the external resources at one's disposal.
4. If society were concerned only with enhancing the opportunities of each particular disabled individual this would generally provide reason to pursue policies of 'personal enhancement' (improving internal resources) or sometimes provision of external resources, rather than material or social change.
5. However there are often strong reasons for 'status enhancement' (changing social and material structures), connected with the idea of a society of equals. Accepting difference is one reason, avoiding stigmatizing individuals provides another reason, and reducing risks to all provides a third.

6. Social action to address disability needs to be seen in the context of many competing claims on resources, of greater and lesser urgency. Disability typically involves complex limitations on an individual's opportunities for secure functioning. The focus of social concern, however, is the individual's limited opportunities and not disability in itself.
  
7. Nevertheless anti-discrimination policy needs to identify a group to be protected. However the concept of disability is unhelpful in this context and policy should be aimed at avoiding discrimination to people who are impaired in their mental or physical functioning.

These theses will be developed in following sections. First, however, I will explain my claim that much contemporary egalitarian thought suffers through being out of step with social policy concerning disability.

### 1. Egalitarian Thought and Disability Policy

Although increasingly coming under critical scrutiny, much recent thinking about equality has been dominated by what has become termed 'luck egalitarianism'.<sup>5</sup> This sees the goal of egalitarian justice as that of neutralising the effects of good and bad (brute) luck on individual fortunes. The method by which it is proposed to achieve such neutralisation is normally termed 'compensation'. Within this view disability is often regarded as a paradigm of bad luck (either in itself or in its effects), for which, it would immediately follow, compensation is due.

Now it is not always clear what is meant by 'compensation'.<sup>6</sup> Sometimes it appears to be little more than a placeholder for the idea that 'something must be done'. But sometimes compensation is viewed in cash terms, or at least in terms of material goods, the provision of which is regarded as 'making up for' something else which is lost or lacking. There are two quite separate possible rationales for offering disabled people cash compensation, corresponding to the two major currents in contemporary egalitarianism. According to the first - the approach based on the idea of welfare - those who are disabled are thought to suffer from lower levels of welfare (typically preference satisfaction) than others, and so need compensation to bring them to an appropriate welfare level. According to the second - within the theory centred on the idea of resources - those with a disability are conceptualised as lacking 'internal resources' compared to others (irrespective of the effects of this on their welfare) and so should be offered additional 'external resources' to make up for this lack. Both strands can in many circumstances converge on the policy of offering cash compensation for disability, albeit for different reasons.

However, when we turn our attention to real social policy we find that the focus is rather different. While it is true that people with disabilities sometimes seek support from the state in cash form, this, first, is only one of many measures sought, and second is seemingly never claimed as compensation for the special miseries of disability, although the idea that it is required to allow people to overcome a lack of internal resources is more plausible. Even so, many financial claims will normally be based on one or both of two specific reasons. The first is poverty; the consequence of the difficulties disabled people often face in earning an adequate income. The second is the special expenses of medical or

other equipment or personal help required simply to get by, which may soak up a large proportion even of an income that would otherwise be adequate. Yet we should note that in reality there are many other possible strategies for addressing disability, aside from cash transfers, such as medical intervention, and technical, social and cultural change. This will be explored more thoroughly shortly. In the meantime we should note that luck egalitarianism - at least in the forms currently on offer - typically recommends a strategy which is rarely thought of as appropriate, or at least sufficient, for addressing disability.

The point is not that equality of welfare or equality of resources must always offer cash compensation, for there may be contingent reasons why other measures may be used. For example some forms of collective provision may be a more efficient means of delivering welfare or resources than individual cash compensation. Rather, it is that these views lack a principled reason for preferring other strategies. In my view this is a serious weakness of such theories (although other people might view it as a strength). It appears, then, there is every reason for looking beyond the welfarist and resourcist views which have provided a main strand of luck egalitarianism.

## 2. The Good Society

The failure of luck egalitarianism has been attributed to its excessive concentration the idea of fairness between individuals, to the exclusion of the idea of creating relations of equality between people.<sup>7</sup> However it is important not to make the opposite mistake of imagining that all that matters is social relations. Rather equality is surely a matter both of distribution and social relations, which need to be integrated into a single scheme. That

integrative task will not be attempted here in detail. Nevertheless, as indicated, a background assumption to this discussion is that a good society will meet at least two goals. First it should offer each citizen genuine opportunities for secure functionings. Second it should be a society of equals at least in the sense that differences between people should be accepted. Consequently, in formulating a theoretical approach to disability policy we have to consider both of these goals. Section 2.1 discusses the former at some length, Section 2.2 the latter, more briefly.

## 2.1 Genuine Opportunities for Secure Functioning

The view to be developed here owes a good deal to Amartya Sen's well-known 'capability' view, although this is not the place to engage in lengthy exposition of Sen. To lay out the barest bones of Sen's theory, when assessing an individual's well-being we should consider not that person's welfare level, or their resources, but their 'capability to function', where functionings are what a person can 'do or be' and understood to be irreducibly plural in the sense that more of one cannot always make up for less of another.<sup>8</sup> A capability is, it seems, an individual's opportunity to achieve a functioning, and a capability set is an individual's opportunity to achieve a range of different sets of functionings, given that capabilities or opportunities can be used to achieve various different ends. Sen deliberately avoids giving a definitive list of functionings, but in the case of disability the most relevant are likely to include mobility; education; independence; fulfilling leisure; employment; financial well-being; health (including freedom from pain); social relations to others, including the ability to express one's care and affection for them; family life; a sense of being valued; and participation in the political life of one's

community.

Although Sen's view is extremely helpful, I want here to defend a dual modification; the 'genuine opportunity for secure functionings' view. I will not question the idea of functionings, but rather the shape of the theory in which functionings appear. The first issue centres on the vagueness of the idea of a capability. To explain, within the tradition founded by Sen it is customary to argue that the government's proper role is not to provide functionings for people, but to provide opportunities for functionings, which, as noted, in Sen's terminology is rendered 'capability to function'. The advantage of the capability approach is often thought to be that it creates a space between government and its citizens in which a citizen is able to exercise a significant degree of responsibility for his or her own fate. Accordingly, on such a view, if a government provides for its citizens the proper capabilities to function, citizens have no complaint if, as a result of their own choices, they do not achieve appropriate functionings. And correspondingly no one else has a complaint if an individual manages, through his or her own efforts, a higher level of functioning.

Although this sounds appealing in many respects, the contrast between the idea of a government supplying functionings on the one hand and capabilities or opportunities on the other, is less clear than is often assumed. For, in general, it is impossible for a government to guarantee the functioning level of its citizens without extreme coercion. The old adage that 'you can take a horse to water but you can't make it drink' applies. Short of force-feeding you cannot guarantee a nutrition level. Short of incarceration you cannot guarantee shelter. In normal circumstances all goods - or at least all the goods a

government can legitimately offer - are opportunities.<sup>9</sup>

Yet this also points to the vagueness of the capability approach. If we think of capabilities as opportunities for functionings, then this means that the enjoyment of functioning will generally be conditional on performing some act - if only an act of speech - normally within the agent's power. Hence the central issue becomes the nature of the actions required of the citizens (or exceptionally by others) to turn their capabilities into functionings. Egalitarian theorists have tended to talk in terms of choices but it is rarely as simple as this. Choices generally require other actions, and actions typically have costs, or, at least, risks. Consequently any capability theorist - and more broadly any theorist who wishes to give responsibility a central place - has to consider which actions, and which costs and risks, should be required of individuals in order for them to enjoy a particular level of functioning. The range of variation is enormous: from a life's effort to the stretching out of a hand. A simple appeal to 'capability' or 'opportunity' will not suffice. It is not acknowledged as often as it should be that capability theory, or any opportunity theory of distributive justice, is under-specified until this is settled.

It seems, then, the government, like the Greek Gods, has to decide which tests have to be passed and hurdles jumped over before people can enjoy the goods they seek. Perhaps the most promising approach considers not whether a choice has been made,<sup>10</sup> or whether an individual identifies with their actions,<sup>11</sup> but whether it is reasonable for someone to act one way rather than another. Whether it is reasonable will, in turn, depend on the potential impact of so acting on other aspects of the person's life, and the lives of others, and the potential impact on the person and others of their not acting in a particular way,



assuming that society has to come to their aid in some way. Hence the relevant notion of reasonableness is that of inter-personal justifiability, rather than prudential reason. There are numerous ways in which such a theory could be developed, but here I rely on the general idea, realizing that in practice many cases will be contested as different standards of reasonableness will be assumed by different people.

To illustrate the general idea, many may argue, for example, that it is reasonable for an unemployed single mother to turn down a menial, low-paid, full-time job in order to be able to see her young children to school, and look after them in the vacations. If so, it is right that she should continue to receive state support even though she has chosen to reject full-time work, and to identify with her role as an active mother who personally cares for her children. The costs to her (and to her children, although that is a further issue) of taking this job, it can be argued, outweigh the costs to the taxpayer of continuing to support her. This takes all the impacts – costs and benefits - of potential action and non-action into account when judging whether an individual has a genuine opportunity. It supposes that someone has a genuine opportunity for achieving a functioning when it is inter-personally reasonable to expect him or her to take steps to achieve that functioning. In the above example, it is true that this woman could get a job to pay for rent and food if state support was cut off, and so, in some sense she does have an opportunity for achieving the functionings of shelter and nutrition. Yet on the theory of responsibility advanced here the cost of exercising that opportunity is arguably unreasonable to ask, and if it is unreasonable then the opportunity does not exist in the relevant sense. For ease of expression we can adopt the distinction between ‘formal opportunity’ and ‘genuine opportunity’ to capture this sense of responsibility.

However the capability approach requires a further modification in order to capture more of the nature of advantage and disadvantage. Sen provides two examples which bear examination. The first is from the southern edge of Bangladesh and of West Bengal in India, where the Sundarban ('beautiful forest') grows. This is the habitat of the Royal Bengal tiger, which is protected by a hunting ban. The area is also famous for the honey it produces in natural beehives. The people who live in the area are extremely poor, but survive by collecting and selling the honey, for which they can get a relatively high price in the city. However, this is a very dangerous job. Every year some fifty or more of them are killed by tigers.<sup>12</sup> The second case is of Mr. Kedra Mia, a Muslim labourer who would worked in a Hindu neighbourhood in Dhaka, where Sen grew up as a child. Mr. Mia was knifed on the street by Hindus, and later died. While aware of, and deeply concerned about, the risk of working in a Hindu neighbourhood in troubled times, Mr. Mia had no other choice but to do so to save his family from malnutrition.<sup>13</sup>

Although Sen does not emphasise the point, the striking thing about these examples is that the primary disadvantage these people suffer is that they are subject to extreme risks. If there were no tigers, or no Hindu knifemen, there would be nothing to distinguish these cases from perhaps hundreds of millions of others. What makes them special, although sadly not uncommon, is that people take a high risk of death in order to put food on the family table. Of course life can never be risk free, and security is a matter of degree. Yet in this case we have people who, in order to achieve a basic level of functioning for their families, are forced to take risks which are far more extreme than those regularly taken by others.

Note too that although in both of Sen's cases people die, even those who do not - the surviving honey collectors, other Muslim day labourers in Hindu districts - suffer disadvantage through exposure to risk.<sup>14</sup> What, though, is this disadvantage? It is multi-dimensional, and intuitively we can list many aspects. First, there is the real possibility of actual harm. Second, there is the fear of and anxiety about that harm. Third, there is the 'planning blight' of living with uncertainty in terms of the difficulty of planning one's life under such conditions.<sup>15</sup> Fourth there are the steps one must take to try to mitigate the risks. Some may argue that unless actual harm is suffered the first dimension is illusory: the mere fact of being subject to risks that others are not. To test this, imagine you are a honey collector who is unaware of the risks and lives to a ripe old age. Are you disadvantaged by the fact of facing this risk, even though it has no effect on your mental state or behaviour, and the harm never falls on you? In my view you are, but I have to concede that it is hard to find arguments either way.

Analysing this further, we can see three distinct ways in which functionings can be at risk, or, as we might say, three ways in which functionings can be, or become, insecure. First there is a risk to a specific functioning. A day labourer, or, indeed, an adjunct Professor, lives constantly under the threat of unemployment, and thus lacks security of employment. Secondly, this risk is likely to spread to other functionings - cross-category risk. Anyone relying on their income to buy food will find that risks to employment generate risks to nutrition among many other things. Third, steps taken to secure one functioning, such as nutrition, may put other functionings at risk, such as health and safety, as in the case of Kadar Mia and the honey gatherers. To secure food for themselves

and their families they put their own lives in grave danger. This we could call an 'inverse-cross-category risk'.

These three forms of risk to functioning create vulnerabilities for disabled people. Quite obviously many people with impairments face insecurity of health; far higher than average risk of a worsening of their condition, or new complications. Another example of the same type is that some disabled people are particularly threatened by the possibility of technical change. Anita Silvers points out that when Microsoft changed from DOS to Windows, many visually impaired people who had relied on screen readers could no longer work, or at least not until Windows compatible readers were introduced.<sup>16</sup> Yet even before the technical change, the visually impaired had a perhaps unnoticed vulnerability to technical change. These are both examples of risks within a single functioning.

Cross-category risk is also present. The possibility of deteriorating health, or lack of flexibility in the workplace reduces employment possibilities, and further, as we have already seen, increases risks to anything depending on income. But there is also inverse cross-category risk, where the attempt to secure one functioning places another functioning at risk. Some disabled people who enter the workplace lay themselves open to the upset of routine day-to-day discrimination, whether deliberate or not, which may have been avoided by staying at home. Similarly those disabled people who wish to enter the public arena such as politics face the possibility of routine public humiliation, especially given the unpopularity of the causes which they are likely to advocate. Those who seek to follow recreations enjoyed by others, such as some forms of sports, may put their health at greater risk. Those provided with the services of a carer to ease the routines

of daily life face the risk of abuse. And so on.

In sum the view sketched here is that in providing a complete account of an individual's level of advantage we need to take notice of that person's genuine opportunity to achieve secure functionings, where security is understood in terms of absence of exceptional risk.

## 2.2 A Society of Equals

As mentioned above, it has become common in recent discussions of equality to distinguish between a distributive ideal of equality, in which equality requires the equal provision of some good to all, and an ideal of social equality in which equality concerns the relations in which people stand to each other. Limited progress, however, has been made in understanding the latter idea, even though it has been at the heart of a certain tradition of thinking about equality for many decades.<sup>17</sup> Most often the idea of social equality is expressed negatively: an opposition to snobbery and servility; and opposition to hierarchy and patterns of deference. Is social equality is to be understood merely as the absence of social inequality? That, surely, is part of it, although it seems to leave something out. For absence of inequality is compatible with relations of alienation between individuals, and more than this is required. Yet it seems hard to say exactly what should characterize a society of equals, if only because many different societies could exemplify this idea in different ways, and it seems wrong to be prescriptive.

Perhaps, though, the way to make progress is to argue that the distinction between a distributive ideal of equality and an idea of social equality does not quite cut things the

right way. For if distribution concerns individual well-being then it seems that social equality must be about something else. But what? And what is its point if it does not contribute to well-being? Rather, I suggest that we need a more expansive idea of well-being, where understanding oneself as having a 'place in the world' and not having to look up to others or being regarded as a marginal member of society are themselves important functionings and aspects of well-being. This, then, provides a bridge between a distributive idea and a social idea of justice. On this view the past error of the distributive ideal was simply to have too narrow an understanding of well-being.<sup>18</sup> On a fully expansive conception the goods produced by social equality are enjoyed as individual aspects of well-being.

In the current context the most important aspect of social equality is that if people are not accepted in their differences from each other they will be excluded or marginalized. Of course there are many other ways of being marginalized and excluded, but to attempt to analyse this is beyond the scope of this paper. Nevertheless we can conclude that a society of equals is one that accepts people in their differences, and this, as we shall see later, will have widespread positive effects. This, then, completes the initial sketch of the idea of a good society underlying this discussion.

### 3. Creating Opportunities and Remediating Disadvantage

Earlier I discussed the inappropriateness of cash compensation as an 'all-purpose' approach to remedy disability. What other strategies than cash compensation are

available? Rather than simply make a list, I would like to propose an analytic framework in which different forms of strategies can be understood and their presuppositions brought out.<sup>19</sup>

To make progress we need to set the discussion of disability into the broader context of the analysis of disadvantage. If advantage is to be understood in terms of genuine opportunities for secure functionings, we must ask what it is that determines an individual's opportunities. Crudely there are two sorts of factors we need to enter into the calculations: what the person has; and what they can do with it. Dworkin's language of resources is a helpful first step in the right direction. For Dworkin this includes both external resources - - money, control over parts of the external world etc - - and 'internal resources' - - Rawlsian natural assets.<sup>20</sup> However, contrary to the appearance implicitly encouraged by Dworkin, you cannot 'read off' an individual's opportunities from their resources alone. For as Dworkin would be the first to admit in other contexts, you also need to know facts about the structures operating within that society; laws and customs, the influence of tradition, religion, language, culture and other social norms; the configuration of the material and natural environment, and perhaps other things too.<sup>21</sup> Slightly misleadingly I shall refer to all of this as 'social and material structure' (sometimes 'social structure' for short). Thus the overall formula comes to this: the interaction of your internal and external resources with the social and material structure within which you find yourself determines your opportunities, creating for you paths of varying cost and difficulty. In short, your resources are what you have to play with; the structure provides the rules of the game.

Accordingly, we can see that if someone is thought to be lacking in opportunities, then, in principle, there are at least three spheres in which we might try to address this: internal resources; external resources and social structures. An attempt to address disadvantage in the 'space' of internal resources means, in effect, acting on the person (which, of course, is something agents may do for themselves in some cases). This would include education and training as well as medical and surgical intervention. This, for obvious reasons, I call personal enhancement.

Action in the space of external resources can take at least two main forms. One, of course, is cash compensation, in which individuals are given money to spend as they like. Yet we also provide individuals with resources with strings attached. For example, some students with learning disabilities are given cash to spend only on computers, or are given a computer. But this is not intended as a grant of a piece of private property, with all the rights normally associated, but rather the use of an object for a particular purpose and not for others. There are many similar examples, including the provision of carers who are employed to perform some services but not others, and so for example, cannot be hired out to the highest bidder. Granting people resources with use restricted in such ways I call a 'targeted resource enhancement'.

Finally there are ways of improving an individual's opportunities without changing their resources. We can, in effect, change the rules of the game so that people can do better with the resources they already have. This could be the result of a change in law, or social attitudes, or a change in the configuration of the material environment. Perhaps no term is perfect for this, but I shall call it a status enhancement. Consequently we have four distinct



strategies for attempting to address disadvantage: personal enhancement; cash compensation; targeted resource enhancement; and status enhancement. Recognition of status enhancement is a great achievement and contribution of the social disability movement.

#### 4. The Nature of Disability

If it is true that there are several alternative strategies for addressing disadvantage then it appears that in any case of disadvantage we will, at least in principle, be faced with a choice between potential strategies. However in this paper we are not directly concerned with disadvantage in general, but with the particular case of disability. But how, on the theory suggested so far, should we understand disability?

Disability, on the view of opportunity presented here, must lie in the intersection between an individual's personal resources and external conditions. To be disabled is to be in a position where one's internal resources do not provide one with sufficient genuine opportunities for secure functionings, given the social and material structure in which one lives (according to whatever social norm of acceptability is in play<sup>22</sup>) and the external resources at one's disposal. This, clearly, is a very rough statement of the view, and two important challenges need discussion.

First, it is important to clarify the role of external resources, which are highly relevant to one's ability to enjoy secure functionings, and thus are relevant to disability. Eyeglasses, for example, are an external resource, and perhaps are the best technology we have yet

invented to overcome impairment. Do we want to say that such resources eliminate the disability of imperfect vision, or rather neutralise (most of) its effects? Here the distinction between 'impairment' and 'disability' is helpful. A successful external technology will not normally remove impairment. But it can prevent impairment being a disability, thought of in terms of social functionings. On this view, then, possession of external resources can eliminate disability, understood this way, simply by mitigating (not removing) impairment.

Of course disability cannot always be eliminated by possession of external resources. A very wealthy paraplegic is still disabled, for although money can help with mobility it cannot currently restore it to the level enjoyed by others. A person who functions at a high level, except in areas for which fine-grained mobility is necessary remains disabled in a particular respect. Whether this calls for public action is a further issue which will be discussed below.

The second challenge to the rough definition of disability offered above is that there may be many ways in which personal and external features intersect to cause reduced opportunity to achieve secure functionings which, it could be claimed, have nothing to do with disability. Being female or black in a sexist or racist society would be examples; these are ways in which a person's features intersect with the social structure to create reduced capabilities. Indeed, strictly it would even follow that lack of money is, or at least contributes to, a disability. Can this be right?

Two responses to this challenge seem possible. The common sense approach is to argue

that excluding poverty race and sex is part of the ordinary understanding of disability, and so aim to restrict the definition. The radical approach, which has its attractions, is to emphasize the continuity between disability and other forms of disadvantage, including some forms of discrimination and perhaps even poverty, to the point where retaining a distinct concept of disability loses its usefulness.

Support for the radical approach comes from Alasdair MacIntyre.<sup>23</sup> Although dependency is not all there is to disability as commonly understood, it is an important part in many cases. MacIntyre observes that we all come into the world utterly dependent on others, and many of us leave it the same way. In the meantime although we almost all achieve some degree of independence, there is no such thing as full independence. Throughout, our lives depend on the knowing and unknowing contribution of uncountable numbers of others. Dependence is a matter of degree, not kind. This, of course, does not show that the same is true of disability, but still it may help us to rethink what we want from the concept of disability. Just as it makes little sense to attempt to divide the world into the dependent and the independent, we might question whether it is useful to sort the world into the disabled and the non-disabled, as the common sense view tries to do.

Nevertheless, it may seem that there are important reasons for retaining such a distinction, and so for attempting to give a more precise version of the commonsense concept. One reason is that anti-discrimination policy appears to need a clear and useful way of picking out a class of people for special protection, and, it may seem, the common-sense view is essential. On such a view it seems that there must be some impairment of bodily or mental

functioning which figures as part of the explanation of the further lack of capability to achieve secure functionings. (We return to the issue of anti-discrimination policy in Section 9.)

Impairment is a normative concept in that it pre-supposes some norm or standard against which a person fails to achieve. There is more than one way in which this could be developed. Standardly, a notion of 'normal biological functioning' or 'species-typical functioning' is assumed, and a person with an impairment fails to meet this normal level. Alternatively, the idea of impairment could be personalised in that impairment is simply a failure to achieve what is possible for that person. However this seems to me a substantial revision of the standard concept, over-personalising it. This may be more enlightened in some respects, but on the common understanding impairment has an ineliminable reference to the normal or typical.

Now impairment is not sufficient for disability, for an impairment of biological functioning that has no effect on a person's ability to achieve secure functionings is no disability. Hence two sorts of 'normal range' of functionings are assumed: what we could call the biological and the social. What it is to be disabled, on the common sense view, is to find it harder than others to achieve within the normal range of secure social functionings, and part of the explanation of this is a biological impairment - a lack of functioning - defined in terms of species typical attributes. Here, then, our working definition of disability is in terms of an extension of the common sense notion: to be disabled is to suffer reduced genuine opportunities for secure functionings, where part of the explanation of this reduction in opportunity is mental or physical impairment, given the external

recourses at one's disposal and the social and material structure within which one operates. In Sections 7 and 8 we will return explore this common sense notion further.

## 5. Choice of Strategies of Reasons for Personal Enhancement

Disabled people, it has been assumed, should be the focus of special attention. But what sort of attention? In Section 3 several different strategies for addressing disadvantage were explained. How should we choose? Sometimes it will be obvious that one strategy is not feasible or its cost is prohibitive. Yet even among feasible options cost may not be the only factor. Sometimes it is not impossible that we might prefer what appears to be a more costly strategy to a less costly one. For different strategies can send different messages, as they can also pre-suppose different understandings of the human good. If we choose one strategy over another, it may well be because we presume the truth of one particular account of the human good, or, at least, one element in such an account.<sup>24</sup>

In general, the clearest contrast is between the strategy of personal enhancement and the strategy of status enhancement. In the case of disability, what has been called the medical model of disability, in proposing that we act upon the person normally through surgery or other medical attention, provides an example of the strategy of personal enhancement. Opponents of the medical model often point out that it appears essentialist, or, at least, perfectionist. It pre-supposes that there is a particular way in which people ought to be. Of course it can be replied that at least some forms of personal enhancement are enabling in that they will allow people to pursue many new goals, and in that way are anti-perfectionist. However this should not be allowed to obscure the point that very often

forms of personal enhancement are proposed as ways of bringing people closer to some form of idealised stereotype, if only that of 'normal species functioning'.

In contrast, the social model of disability proposes that we modify not the individual person, but technology or laws, the built environment or public understandings; in my terminology to attempt status enhancements. Status enhancement seems much more tolerant of people in their differences than policies of personal enhancement and so sends much more of a pluralist, inclusive, message. One worry, though, is that it may tolerate too much, in that sometimes it could be worse for someone, or for society generally, if society adjusts to them, rather than they adjust to society. (To take an example from outside the sphere of disability, consider what would be involved in using this strategy for illiteracy.) But a further concern is simply that status enhancement can be incredibly expensive, and often only marginally effectual, at least in the short to medium term.

The strategy of targeted resource enhancement can take a variety of forms and may either support people in their differences or give people only those things which will help enable them to achieve certain 'approved' paths or lifestyles. So it is capable of presenting both pluralist and perfectionist messages.

Cash compensation is perfectionist in one way and pluralist in another. It is perfectionist in that it appears to assume that the only good is either some form of money or something that can be acquired through the possession of money, such as preference satisfaction. But it is pluralist in that it does not investigate, or even care about, what people do with the money once they have it. However the key assumption behind the strategy of cash

compensation as a preferred or exclusive approach is that all disadvantage can be made good through awards of cash. As we saw earlier, one theory on which this is so is on a resourcist understanding of advantage, in which external resources are provided to make up for a lack of internal resources. Another is that of subjective preference satisfaction in which all preferences are, in principle, commensurable.

Internal resources, external resources and social and material structure are the elements, I have suggested, that determine an individual's opportunities in life. I have also suggested that these match against different strategies for remedy, and that these different strategies at least sometimes make different pre-suppositions about the human good. This, however, is not yet enough to explain why we should choose one strategy over another. How should such a decision be made? It is not an unreasonable assumption that where there is more than one possible strategy available, we should use the one which is in some sense most effective. Indeed any other approach seems perverse. Why, other things equal, prefer a less effective strategy to a more effective one?

It may seem that it follows very easily from this approach that we should generally prefer personal enhancement, for, it will be argued, giving people mental and physical abilities is the most efficient way of allowing them to achieve secure functionings.<sup>25</sup> Mental and physical abilities are adaptable, multi-purpose, and greatly improve opportunities. Personal enhancement is direct, it can be highly effective, and although there may be recovery, adaptation and adjustment time, the benefits of personal enhancement for any given person are likely to be enjoyed within a reasonable time frame. Hence, it may be

said, this argument also provides a reason to favour medical approaches to disability.

## 6. Reasons for Status Enhancement

However this appearance of favouring personal enhancement is by no means the whole story. For it leaves out our other goal: creating a society in which people stand as equals to another.<sup>26</sup> This, as suggested above, provides a set of reason for preferring the strategy of status enhancement, changing society. One is that status enhancement is non-stigmatising. A second is that it is inclusive. A third is that it benefits everyone.

We can explore these reasons, somewhat indirectly, by considering the issue that where there are two distinct goals of policy – in this case addressing individual disadvantage and creating a society of equals<sup>27</sup> - there is the possibility of conflict, and the question of how to balance the two issues can generate acute, cruel dilemmas in particular cases. Consider, for example, a society in which it is well-known that women will only be able to find good jobs if they meet certain norms of physical attractiveness. It may be the case that for some jobs, such as a fashion model, this may be reasonable enough, but for most jobs physical appearance should be irrelevant. Nevertheless, let us assume that this norm has seeped through society as a whole. Women who fail to meet this norm are disadvantaged, and so may seek cosmetic surgery - a personal enhancement. The question that immediately concerns us is not whether cosmetic surgery should be provided at public expense, but whether this is an appropriate way of addressing the disadvantage such women suffer. Surely status enhancement - a change in norms - would generally be agreed to be



preferable.

But why would it be preferable? A good society, it may be said, should not contain rigid pressure to conform, but should be tolerant of difference.<sup>28</sup> Why? Some might argue that difference is good in itself. This seems implausible. We would not, for example, encourage genetic programmes to produce human beings with lilac or magenta skin, or extra limbs, in order to glory in the difference. Rather we want a world in which existing (and anticipated) difference are accepted. But why should any of us want this?

To begin to answer this question, consider another example, this time in relation to disability. One disability activist has sometimes remarked publicly that he 'celebrates' his quadriplegia. This has been taken by some as a shocking, even irresponsible, statement. Is he advocating quadriplegia? Does he want to bring more quadriplegics into the world? Does he think we should be pleased if someone loses the use of their arms and legs? Should we neglect safety, as if becoming quadriplegic doesn't matter? If he could instantly and painlessly be brought to full functioning, would he decline? Would he disapprove of others who chose the cure? In sum, does he think that it is better to be quadriplegic? Rather, I imagine, he is trying to make another, quite different, point with a political intent. A society which has adjusted itself to accommodate quadriplegia by means of suitable transport and education policies, tolerant social attitudes and other imaginative steps, is good for all of us. It is good in at least two ways. First it helps communicate a message that human beings are all equals and should all be included in our social arrangements. Second, any one of us – or our loved ones - may tomorrow suffer an injury which would leave us quadriplegic. A society ready and waiting for us if we do suffer this

undoubted misfortune somewhat mitigates some of its effects. Hence the activist's celebration of quadriplegia is a highly altruistic gesture. Making people aware of the lives of quadriplegics may help us steer society and its institutions in the right direction. He has opened himself up to scorn, ridicule and incomprehension in order to try to make the world a better place for all. (This, indeed, is an example of inverse cross-category risk.)

To put the general point in the terms of this paper: a society which favours status enhancements reduces risk to everyone. It reduces the risk not of becoming quadriplegic but of suffering further losses of functioning consequent on becoming quadriplegic. Hence status enhancement goes some way to providing secure functionings for all, insofar as this is possible. It makes us all better off, whatever our fate.

Yet it is not always a simple matter. Let us return to the case of female employment and cosmetic surgery. A young graduate, about to enter the job market, but who fails to live up to norms of beauty, may be desperate to undergo cosmetic surgery. At the same time she may completely understand that she is helping to reinforce the obnoxious values of the dominant culture, to the detriment of others like her, who will continue to feel forced to undergo surgery. And these people may include her younger sisters and daughters. But, she may well argue, she has no choice. Her refusal to conform would have no effects on its own. It would be an empty gesture, unless it was part of a mass popular or political movement. Status enhancement is rarely possible on an individual basis, unless one is already a role model of some sort. Here, then, individual functioning and longer-term social progress pull apart. Progress relies on the very public courage of the few. Yet this should not make us turn away from policies of status enhancement. For imagine we have

achieved a world in which people are accepted whatever they look like. They never need form the thought that they might not be accepted (except, perhaps, as a rather extraordinary historical observation about how things were in the bad old days), nor do they even need to form the thought that they have benefited from social policy. This, then, is why status enhancement is non-stigmatising. It does not need to identify which particular individual to help in order to help them. It requires neither pity nor gratitude.

## 7. Disability and Social Policy

What I have just said about the non-stigmatising benefits of status enhancement may seem to be in tension with the fact that, from the point of view of social policy we do need to identify people with disabilities. Furthermore, the definition I have offered shows how to do this: a disabled person is someone who lacks genuine opportunity for secure functionings owing (in part) to physical or mental impairment. So there is, it may be argued, both a need to identify disabled people in order to help them, and a means of doing so.

However this argument pre-supposes that disabled people need help of some form because they are disabled. On this view, we must attend to the needs of disabled people whatever else is true of them; whether they are wealthy or poor; have a wide and rich social network or are socially isolated, and so on. An alternative view is that disability as such is not the crux of the matter; rather we need to come to an assessment of what we could call someone's total life experience, and those who do worse on this measure have

the most urgent social claims. Which view is correct? One argument is that a humane society should attend to each and every need of each and every person, and so all people with disabilities should receive assistance whatever else is true of them. In response it will be argued that resources are limited and we cannot do everything. Consequently what matters is whether or not people have genuine opportunities for secure functioning, and not whether any lack of functioning is attributable to any particular cause. On such a view the idea of mental and physical impairment is strictly speaking irrelevant to social policy: what matters is the most urgent lack of opportunities for secure functionings. Disability gives rise to claims alongside many other calls on scarce resources and must be judged against them.

There seems to be something right about both sides. For example allowing only those of below average income to use disabled parking bays, on the grounds that the wealthier do not need subsidized parking, is not an attractive social policy. Where a measure is relatively cheap, and beneficial, there seems reason to apply it generally. Yet at the same time it should be possible to have a reasoned debate about whether some measures are over-demanding; for example building codes for disabled access which make building, say, a new leisure centre prohibitively expensive. This is not to say that such codes must be wrong, but it should be possible to ask such a question with an open mind, taking into account all the consequences. Decisions have their costs and these should be brought into the open, at least at the level of the formulation of general policy.

However, even when we take 'total life experience' approach, where, strictly speaking, the issue of disability (lack of opportunity through impairment) becomes irrelevant, this does

not mean that the concept of disability is irrelevant in practical terms. For some impairments are so devastating that they typically cause a whole set of effects. Indeed many disabled people find a whole range of secure functionings beyond them. Hence the idea of disability remains important as a marker for a constellation of disadvantages, rather than as a disadvantage in itself. Even if, at the most fundamental level, the concept of disability has little or no work to do, in practical terms it is of use.

## 8. Anti-discrimination

It may be urged that there is one further way in which the concept of disability is required for theoretical purposes, one which renders the radical approach to disability, canvassed in Section 4 above, highly problematic. Disability advocates sometimes seem to want to argue both that there is no hard and fast line between able-bodied people and disabled people, yet, at the same time that disabled people should receive special legal protection. Here it may seem, disability advocates face a dilemma. If they wish to argue that disabled people need special treatment in legal and social policy, then a clear distinction between the disabled and non-disabled is indispensable. So the radical proposal that disability is in effect, nothing special, cuts away this ground. If there is nothing special about disability, there is nothing special about disability. On the radical view, societies should attempt to remedy disadvantage, whatever its cause. Consequently, as we have seen, aiding some biologically impaired people may turn out to be a low social priority if, for example, their lack of secure social functioning is relatively minor.

In response to this it is tempting to think that a dual view may be the way forward. There

is a difference between outright discrimination - whether intentional or negligent - and disadvantage. The common sense view of disability - or something like it - appears to have an essential role to play in the formation of explicit legislation and policy, protecting people with disabilities against discrimination, on the model of legislation against sexual and racial discrimination. However from the point of view of distributive justice the concept of disability itself needs no place, except to be recognized as one very common correlate, and probable cause, of social disadvantage; a reduced opportunity to achieve secure functionings. And here too we see the situation parallel to that of race and gender.

Yet on further reflection it is apparent that we do not, after all, need the common-sense view of disability even for anti-discrimination policy. For the parallel to race and gender is not disability but impairment: discriminating against people on the basis of their physical and mental properties, not on their opportunity to achieve secure social functionings. So on the view advocated here, discrimination policy needs the concept of impairment; while social justice needs the concept of advantage understood as the worthwhile opportunity to achieve secure functionings. Nevertheless, as noted, the concept of disability remains important. As noted, people with severe impairments often find it difficult to achieve a whole range of secure functionings, and so if someone is impaired to this degree then it is likely that they will need to be the focus of special attention. The term 'disability' has a vital use in identifying particular 'clusters' of disadvantage. However in itself the concept of disability need play no fundamental role formulating the theory behind social policy.

## 9. Conclusion

My task in this paper has been to consider how a society of equals should deal with issues of disability, seeking an answer with credibility both from the point of view of political philosophy and social policy. Rather than attempt to summarize my claims and arguments once more (they are set out in the introduction) I would like to conclude by drawing attention to one central argument of this paper: the advantages of status enhancement as a form of addressing disadvantage. Although those who advocate the social model have long understood and advocated this, it is worth ending with a statement of the three grounds on which, according to the arguments of this paper, it should often be the preferred means of addressing disadvantage, when available. First, it is non-stigmatising; individuals do not have to be identified in order to be helped. Second, it is inclusive, welcoming people in their differences, rather than attempting to impose a single mould. Third is benefits everyone by reducing risk. For a society of equals this should be an immensely attractive strategy even if it cannot always be achieved in practice.

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<sup>2</sup> For a fascinating sample of theoretical work from scholars active in the disability movement see the essays in Shakespeare (ed.), 1998, and Tremain 1996.

<sup>3</sup> See, in particular Birkenbach, 1993; Silvers et. al., 1998; and Buchanan et. al., 2000. Rawls, notoriously, deliberately excluded questions of the disability from the account of justice set out in *A Theory of Justice*. (Rawls 1971). See also Rawls 1999, p. 259; and Rawls 1982, p. 168.

<sup>4</sup> This view of a good society is defended in detail in Jonathan Wolff and Avner de-Shalit, forthcoming. This paper applies the analysis of that book to the particular issue of disability, and thus draws heavily on this joint work.

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<sup>5</sup> Anderson 1999 coined this term. Luck egalitarians, in this sense, include Dworkin, Cohen and Arneson. For critical discussion see Wolff, 1998, Anderson 1999, Hinton 2001, and Scheffler 2003.

<sup>6</sup> A useful attempt at clarification is Robert Goodin's distinction between 'means-substitution' compensation and 'ends-displacement' compensation. See Goodin, 1990. For doubts about this distinction and an attempt to replace it with a continuum, while remaining within the spirit of Goodin's suggestion, see Wolff, 2002, p. 209.

<sup>7</sup> See Wolff 1998, Anderson 1999 and Scheffler 2003.

<sup>8</sup> Sen's theory is set out over a number of works. For representative samples see Sen 1980 and Sen 1999.

<sup>9</sup> However we should not overlook that some disabled people do not live in normal circumstances. For those in institutions, effective incarceration and force feeding is not unheard of. Giving such individuals more control would be a welcome consequence, it seems, of the capability approach.

<sup>10</sup> This is the view favoured by Cohen 1989 and Arneson 1987.

<sup>11</sup> This is the view that many associate with Dworkin. See, for example, Cohen 2004, p. 7.

<sup>12</sup> Sen 1999, p. 146.

<sup>13</sup> Sen 1999, p. 8.

<sup>14</sup> I owe the insight that risk is a neglected aspect of disadvantage to Avner de-Shalit. This idea is developed in detail in de-Shalit and Wolff (forthcoming).

<sup>15</sup> For a detailed account of the effects of lack of control on health and life-expectancy see Marmot 2004.

<sup>16</sup> Silvers et al 1998, pp. 107-110.

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<sup>17</sup> See, for a leading example, Tawney, 1931. Recent advocates of this idea include Miller, 1998, and Norman, 1998.

<sup>18</sup> In an earlier paper (Wolff, 2001) I made this same mistake myself. I would now say that we must distinguish between something being good for an individual from that individual recognizing that it is good for them. Social equality – non-exclusion – is good for an individual whether or not they recognize it. Consequently, in the ultimate currency of justice there can be no justified leveling down, although, as it were, in the ‘penultimate currency’ leveling down will be commonplace.

<sup>19</sup> The following analysis draws on Wolff, 2002.

<sup>20</sup> Dworkin, 1981b.

<sup>21</sup> To be fair to Dworkin, in his third paper on equality, he does incorporate such material and social factors into his understanding of resources: a resource is different under different social, legal and perhaps material circumstances. (Dworkin 2000, 143-5) However there seem to be powerful analytic advantages in keeping resources and structures separate, as we shall see.

<sup>22</sup> I do not here say anything here about what this complex norm should be, reserving the topic for future work.

<sup>23</sup> Macintyre, 1999.

<sup>24</sup> The following paragraphs rely on Wolff 2002 where the argument is elaborated in more detail.

<sup>25</sup> This apparent consequence was pointed out to me by Frances Kamm.

<sup>26</sup> I thank Alex Voorhoeve for reminding me of the availability of this reply.

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<sup>27</sup> Given my argument that the goods of a society of equals can be understood in terms of a wider conception of individual advantage it is more accurate to say that aspects of individual advantage can conflict. However, putting it this way better brings out the nature of the conflict.

<sup>28</sup> For some reflections on the nature of toleration and its relation to the idea of social ethos, see Wolff, 2003.