

## Discapacidad, mejora e igualdad

**ABSTRACT:** In this paper I defend that equality of opportunities among intellectually disabled and non-disabled individuals requires the implementation of some sort of human enhancement. For this I first present two conceptions of disability: natural disability and social disability. Secondly, I introduce the case of intellectual disability to show how it poses a problem for the social account of disability. I then show how enhancement solves the problem of inequality of opportunities for each understanding of disability and answer some potential objections towards the account I propose. Finally, I conclude with a potential problem for my account that has to do with how to understand relative inequality.

**KEYWORDS:** Enhancement, Intellectual Disability, Equality, Justice, Future Generations

**RESUMEN:** En este artículo defiendo que la igualdad de oportunidades entre personas con discapacidad y no-discapacidad requiere la puesta en marcha de cierto tipo de mejora humana. Para ello, presento primero dos concepciones de la discapacidad: la de la discapacidad natural y la de la discapacidad social. Seguidamente introduzco el caso de la discapacidad intelectual con la intención de mostrar cómo resulta un problema para la concepción social de la discapacidad. A continuación muestro cómo la mejora genética puede resolver el problema de la desigualdad de oportunidades para ambas concepciones de la discapacidad, y contesto a algunas objeciones potenciales a esta propuesta. Finalmente para terminar introduzco un problema potencial para mi concepción que tiene que ver con cómo entender la igualdad relativa.

**PALABRAS-CLAVE:** Mejora Humana, Discapacidad Intelectual, Igualdad, Justicia, Generaciones Futuras

### 1. Natural & Social Accounts of Disability

There are two main accounts of disability that have provided different understandings of what being a disabled individual implies. The natural account of disability states that disabilities are natural differences among individuals that can be compensated. Under this view, disability is a conditional result of the natural lottery or pure brute luck which poses some individuals in a disadvantageous situation. Their lack of natural capacities makes disabled individuals disadvantaged as this lack prevents them from accessing the many valuable experiences the average population can access to, such as participation in society, moving autonomously, etc. Thus, in many cases individuals with disabilities depend on the help of others to fully realise their lives.

Under an egalitarian account of justice that sees disability as a natural condition, being disabled can be made up for by compensation. Under a resourcist account of justice, the differences among disabled and non-disabled individuals could be palliated with a shift of primary social goods—rights and liberties, freedom, power, income and the basis of self-respect— from the



non-disabled to the disabled ones. Such a proposal can be found in contract-based theories of justice such as John Rawls' *A Theory of Justice* (1972).

The application of Rawls-type redistributive theories of justice to the case of disability has been criticised. If, on the other hand, the currency of egalitarian justice is understood as capabilities, the proposal would be different. Under a capabilities currency, Eva F. Kittay (2010) and Martha Nussbaum (2010) have argued that the resourcist account allows too much inequality. Most disabled individuals—especially those intellectually disabled—are incapable of full cooperation as equals in the functioning of a society arranged under a Rawlsian contract, which leaves them outside the process of participation in basic decisions and cooperation. For disabled individuals it is not departure from a different material status that produces their inequality with respect to non-disabled ones, but rather departure from a different natural endowment. So if we think we should give priority to those who are worse off, this would require us to perform a huge shift from the non-disabled to the disabled. A greater share of primary goods is an irrelevant measure for individuals with intellectual disabilities as their capacity to transform resources into welfare is in many cases reduced. Thus, what matters according to Sen (1992) is the relevant personal characteristics that govern the conversion of primary goods into the individual's ability to promote his/her ends. So what justice should be committed to in the case of disabilities is that capacities are distributed equally, and not resources.

The second account of disability we will focus on is the social account of disability. The social account of disability defines disability not strictly as a condition that is determined by the individual's endowment, but as a consequence of social structures alone. According to the social account, social structures are conceived and created only for the non-impaired individuals. Either intentionally or non-intentionally society exercises a source of exclusion that reverts in the condition of disadvantage experienced by those with a non-statistical mental or bodily functioning. Thus, society does not promote integration among all sorts of individuals and therefore is intrinsically unfair towards the less advantaged.

According to the social account of disability, the condition of being a disabled person stops having negative evaluative connotations; it's not the mind's and body's conditions which are disabling, but the society the individual is immersed in for not being adapted to her particular body and mind functioning. Some proponents of this

account go even further and assume there is no such thing as a disability, but just minds and bodies that function more or less differently and substitute the word 'disability' by 'functional diversity' (Palacios et al., 2012). The normative claim implicit in this account is that society should be improved to the point that social burdens would disappear, and this change would ipso facto make disabilities disappear.

The social account of disability is also open to criticism. Some philosophers have argued that the social account for disability has become an obstacle to further development of the disability movement for not being subjected to revision over the thirty years of its life (Shakespeare, 2006). One of the reasons why this could be the case is the elimination of the normative implications of having an impairment. The substitution of the designation 'disability' by 'functional diversity' seems not to be accurate in definitional terms. Either all bodies and minds function differently or no body and mind does. Assuming the first is the right option, there seems not to be a reason why non-disabled individuals—under the capabilities terminology—wouldn't be functionally diverse. And if this is the case, it seems that there's much descriptive content we are losing. To remark this point, John Harris points at the fact that making the disabling component rely on social attitudes rather than on the condition alone –or in a mix of both- can be confusing both grammatically and logically, and this is what makes any social account of disability incoherent (2000).

A second objection to this approach is that it relies too much on society as a perfectly fair provider of resources. State investment for integration tends to occur in places and times of economic plenty, which makes needy disabled individuals vulnerable to fluctuation in economical plenty. An example of this is latest reform of the Spanish Dependency Law. Under the original law, individuals who met the criterion of being dependent on somebody else's care for their everyday life such as the elderly or disabled individuals would receive a periodical stipend to cope with such expenses, which would be calculated weighting factors such as rent, housing conditions and level of dependency. From 2013 to 2014 the total budget destined to this help would be reduced in a 37 %, while the Government would still report an increase in the number of attended cases with respect to previous years. Such a report was possible because an adjustment of the criterion for concession of the benefit was made, which raised the minimum level of dependency required for being beneficiary of it. This resulted in the decrease of the number of cases of dependency contemplated by this law, as many dependent individuals diagnosed under the first criterion be-

came no longer dependent under the second. But the difficulties these people had to face were exactly the same, as nor their bodies or minds', neither the society they were living in, had experienced any improvement. This shows how vulnerable the wellbeing of the disabled may be if only dependent upon institutional improvement. Another aspect of the cut approved for this law is the elimination of domestic care as a job that would contribute to the Spanish National Insurance System. This cut on the benefits for domestic carers ultimately translates into the worsening of the effects of being a dependent person, as less people are now willing to devote their time in caring for the needy.

A final criticism to this account is that it identifies the burdens of the intellectually disabled with the ones that affect the physically disabled. The social account of disability was originally designed by the physically disabled individuals. Because of this, it remains solely focused on how social structures can improve to neutralise physical disabilities. Among its aims, it promotes accessibility for any type-functioning individual through the removal of all social barriers in order to ensure equal opportunities. This resulted in a feasible project for those with physical disabilities. The environmental barriers that negatively affect them in terms of equality of opportunities have to do with accessibility, and that is an area in which society has greatly improved in the last decades. Introducing technical devices such as wheelchairs, Braille-adapted documents or sign language readers on public television networks have become popular ways in which services are provided to citizens. And there also seems to be a move from the idea that money devoted to accessibility is a useless expense, to the conviction that it is an investment in equality.

But the barriers that affect those with intellectual disabilities are of a more complex source. *Intellectual accessibility* cannot be provided by the implementation of a higher level of physical accessibility. So while a social change to promote equality among physically disabled and non-disabled could consist on the implementation of accessible physical places with ramps and other mechanical devices to improve the movement of the physically impaired, physical accessibility would not place an intellectually disabled individual in a more equal situation with respect to non-disabled ones. Despite sometimes being also affected by physical impairments, intellectual disability poses a different and unexplored challenge for egalitarianism. The main burdens that affect intellectually disabled individuals are of a radically different nature to the ones that affect physically disabled individuals. These have

to do with complex descriptions of reality, rules of behaviour and relations among individuals, especially humans.

## 2. Intellectual Disability: a problem for the social account

We have seen how the natural account of disability that proposes resources redistribution as a way of compensating for being worse off does not solve the problem of the differences disability produces. Primary goods cannot be understood independently of the person's capacity for their use. We have also seen how the social understanding of disability proposes an egalitarian solution that seeks the eradication of disability through the improvement of society. But the social proposal of disability overlooks the particular barriers that affect intellectual disability and therefore gives no satisfactory solution for the disadvantage condition of the intellectually disabled. Let us consider now a way of improving it.

For the social account of disability to be consistent, it should stop assimilating the burdens that affect intellectual disability with the ones for the physically disabled. This consistent social approach would have to consider that intellectual disability is a condition that increases with the increase of social complexity. That society is becoming more and more complex in terms of functioning is a fact at macro and micro levels. The use of technology or the use of different transportations for everyday purposes is a challenge in the life of many disabled individuals. These challenging activities include tasks such as how to buy a ticket either online or physically, or how to catch the right train. But also how to understand the problems that affect the world in appropriate moral and epistemological terms becomes more challenging every day due to the high number of variables that apply to them.

One can argue this not to be the case because the intellectually disabled get progressively adapted to any increase in complexity in proportion to their capabilities. People with intellectual capabilities make an effective use of new technologies such as the use of internet, and thus the gap between how challenging the world is and the performance of these individuals remains constant. It can also be argued that the size of the gap fluctuates, due to the phenomenon of technology simplification. While the newest operational systems tend to be complicated in use, once in the market new versions are created that improve their functioning and make them

more intuitive and simple. A clear case of this is computers. While the use of the first computers was terribly complicated and very unintuitive, latest computers and tablets have been progressively adapted to the point that even very young infants can make a reasonably effective use of them.

Thus, if it is true that society is becoming more and more complex in the previous terms, the following are two specific policies a consistent egalitarian social account could opt for:

- **'Simplified world'**

Assuming that the complexity of society makes intellectually disabled individuals more excluded, the simplification of the mechanisms of the way society functions would alleviate the consequences of their unequal situation disabled individuals need to face every day.

A way in which society can become more accessible for intellectually disabled individuals is by an improvement in intellectual accessibility. Making language more accessible so that it can be understood by anyone under any intellectual condition has become a popular change. Organisations such as Mencap—a British organisation for the inclusion of people with learning disabilities—has already introduced this policy into their agenda. They even provide a guide for being a good partner for communicating with people with a learning disability. In this guide, they make special emphasis on things such as body language, tone, clarity and the use of simple words. A guide to produce easy-read documents produced by Change in cooperation with The National Equality Partnership (2007) is also available online for free. And institutions like the British Government through the Government Equalities Office have already put official documents such as 'The Equality Act' into this 'Easy Read' style.

One could make a general argument against the necessity of such a policy by saying that disabled individuals are not the only ones for whom these examples of knowledge are inaccessible and for many individuals they do not suppose any interference in wellbeing. Understanding legal procedures or medical research is something that only specialised people do under very specific circumstances; it isn't something that is open to common population, neither is it part of the common knowledge that is required for everyday life. A response to this would be that

there are many other examples of unsimplifiable knowledge that really are part of everyday life or common knowledge. Pieces of art, literature, or the very act of booking a flight ticket online suppose a tremendous cognitive challenge for many intellectual disabled individuals. Simplified versions of main works of literature do already exist. They are normally used to introduce literature to students with special needs and they basically consist in the adaptation of a work to a more easy reading and understanding level. Still, it seems difficult to say that all the content of such works would be preserved under such versions. The feasibility of this simplification project seems dubious for these particular cases in which ideas or images –as it often appear in literature– seem to be intrinsically linked to a particular writing style or fashion.

Another criticism against this policy is that the simplification of the *whole* society would level down who are not in a situation of intellectual impairment. There are some activities and corpuses of knowledge that seem impossible to be simplified without losing what is more essential about them. We all strongly benefit from medicine research being in a high stage of development. Projects on the search of a cure against cancer or malaria for example work under a high level of sophistication. But also more basic medical research does. The same applies to other disciplines such as quantum or aeronautic mechanics. The results of these areas of knowledge have a clear impact in our lives, as it seems difficult to imagine—being the society as it is—that we had to get by without the use of planes as a common transportation, for example. These activities seem all to result in a great benefit for our lives, but they would not be possible in an egalitarian society that got rid of complex pieces of knowledge so that it would become intellectually more accessible to the impaired ones. As we have seen, we have special reasons for caring about the universal accessibility to knowledge, but we seem to be forced to reject this egalitarian levelling-down solution due to its undesirable consequences for society.

- **'2, 3, 10, etc. Versions World'**

This account of a Social Egalitarian proposal for intellectual disability is similar to the previous one. The main difference among them is that a "2, 3, 10, etc Versions World" would create different adapted versions but also keep the difficult ones. There would be the chance to choose whether to opt for the hard or the easy reading version of *El Quijote*. This account of the Social Egalitarianism for

intellectual disability would not be susceptible of incurring in the levelling down problem, as nobody seems to be levelled down by the provision of adapted content with the preservation of the complex one.

This type of policy would nevertheless be still susceptible of the feasibility constraint criticism. All the difficulties mentioned about the preservation of essential content and whether or not reading an adapted version would let the reader access to the same piece of knowledge remain pertinent. As well as to which extent basic activities such as driving or riding a bike, buying a ticket or reading a newspaper could ever be possibly translated into any of these easy-understanding versions.

The previous objections show how difficult an egalitarian social model for intellectual disability is. The consequences that imply the level down of the whole society seem counterintuitive for use. And some other implications such as the intellectual accessibility project seem impossible in the end.

Society can make a large difference to how bad it is to have a physical disability. To some extent, this might be true of intellectual disability, as well, though the kind of experiences that intellectual disability impedes disabled people from having would still be considerable. There is now wide acceptance of the idea that physical disabilities should not disadvantage people unnecessarily. But what response should society give to the existence of intellectual disability?

Can the natural account of disability give a satisfactory answer for the case of intellectual disability? The birth of people with disabilities can now be avoided, or their effects be palliated by medical procedures to select particular embryos and ovules. Is the use of these new procedures justified? Genetic enhancement appears as a new alternative in the fight for equality. It can also be compatible with the improvement of social structures to make them more inclusive. But equality through genetic enhancement can be met in two directions. Let's see how these work.

One way of achieving natural equality amongst intellectually disabled and non-disabled individuals is by levelling down the capacities of the non-disabled to the point of the disabled ones. As it happened with the social account designed to integrate the burdens of the intellectually disabled, levelling down everybody's opportunities in the first case or capacities in the second, does not seem ad-



equate. Levelling down the capabilities of those without disabilities to the level of those with disabilities, although an egalitarian policy, it would be repellently destructive. Being the enhancement performed prenatally, one could argue to threaten the right to be as good as possible and therefore to violate the principle of beneficence. The statistically default option—having a child with normal-functioning capacities—would be substituted by an option that would give the future individual more departure burdens and extra difficulties that would probably help the frustration of some of her future goals. Independently of the strength critique, under a rather libertarian position one could also argue that a practice like this would threaten individual's liberties as there is no possible way to ask a foetus or an early infant whether they want their bodies to be intervened in this way. But also the consequences of the enhancement itself could be seen as bad. As shown for the social account, important benefits follow from the usage of higher intellectual capabilities. And presumably, too low intellectual capabilities prevent one from the enjoyment of a higher variety of experiences, amongst which some will be of intrinsic value for wellbeing.

Thus, it seems reasonable to think there are other more constructive ways of serving egalitarianism and fairness demands. This work is committed to showing that natural egalitarianism recognises that natural capacities add up to the final count of opportunities for wellbeing. Therefore it sees genetic enhancement as a positive way of increasing the capabilities of the worse off so those who are badly treated by the natural lottery can start their lives from a position of equality of opportunities with respect to the fortunate ones.

### **3. Capabilities Enhancement for a Future Egalitarian Society**

Some criticisms can be raised against the proposal of levelling up the capabilities of the worse off by enhancement. The strongest opposition to capabilities enhancement has come from disabled people themselves, who feel the employment of these techniques would allow the life of a disabled person to be seen as unworthy. The representatives of the social movement have been the first ones in showing this opposition, as they believe that the solely improvement of social structures will lead to the solution of the problems impairment pose.

John Harris (2001) has given a response to the worries about enhancing allowing the life of a disabled individual being seen as lacking value. His general argument relies on the fact that we have the moral obligation to avert harm, and that disability is a sort of harm. In relation to the social account of disability, Harris argues that there are some frequent fallacies that social disability studies commit. The most common of those fallacies is the thought that choosing to repair damage or dysfunction or to enhance function implies either that the previous state is intolerable or that the person in that state is of lesser value or indicates that the individual in that state has a life that is not worthwhile or not thoroughly worth living. Harris claims that there is an asymmetry in the value judgements implicit in here: to have a rational preference not to be disabled is not the same as having a rational preference for the non-disabled as a person, and therefore the disvalue alleged would not hold here. I think a parallelism could be traced here. We do not see the fight against cancer as if the life of a person with cancer was not worth living, or if the person with cancer lacked value. It's just a property of a person that we consider worth avoiding. Why should disability be different?

But despite Harris' defence of choice exercise in reproduction with the aim of bringing the best children into the world, he seems to accept some exceptions. These exceptions seem to consider those cases in which the disjunction is: either I have a child with disabilities *or I cannot have a child at all*. He argues that for those who can only have children with disabilities, having such a children may well be morally better, for the parents and for the children, than having no children at all (Harris, 2001, 386). The acceptance of bringing into the world a sufficiently well off child when the alternative is not to bring a child at all is common among other authors. Robert Sparrow (2000) has also claimed that we have the moral obligation to accept the birth of a foetus if this is sufficiently well off and it is the only one available.

There is another criticism that often comes out when discussing genetic intervention and which represents a type of fear against non-default courses of action. Enhancing to prevent disability would create a world in which the number of individuals getting born with a disability would be statistically diminished. This, instead of being regarded as a cheerful forward move in equality, is seen as a negative future state of affairs. The reason for this is that disability makes us, as a society, more

empathetic, more diverse and more knowledgeable, and without the exposure to disability it seems that those values would decrease. But this is a perverse move. We will see now why.

The problem with this claim does not rely on the assumption that disability makes us improve all those values. That disability makes us improve our knowledge may be true of disability and of many other scenarios that challenge our moral understanding of the world and provide us with new moral and political questions, but this pro tanto reason in favour of maintaining the existence of disability can be easily overridden. A pro tanto reason similar to that might also apply to other cases. The Holocaust is a good example of a fact that made us improve our moral knowledge incredibly. Nevertheless if it was possible to make the Holocaust disappear from the past course of history, we would have compelling reasons to do so, no matter how morally ignorant this removal would make future society be. So even if bringing into the world and rearing people with disabilities makes us more knowledgeably sophisticated, the improvement of our knowledge and empathy can be achieved by means others than learning from facts. Imaginary cases or merely analysing previous situations can give us equally powerful and effective opportunities to learn and improve.

The claim that diversity would disappear and that that would be also bad for society can be interpreted in two ways: either having more types of individuals is good itself, or it is good as a means for achieving other good ends such as knowledge, greater empathy, etc. If the meaning of the criticism is the second one, the answer would be the same as the one raised above. If, on the other hand, what is bad is the loss of types of individuals in itself, something else can be said. If a world in which more types of individuals exist, –including disabled individuals as a type– is at any point better than a world that only differs from this in fact that it contains less types of disabilities and therefore less diversity, it seems paradoxical that the promotion of those disabilities should have less value than the conservation of the already existing ones. Nevertheless that paradox seems to exist as lab-created disabilities do not seem to be a popular way in which advocates of the value of diversity invest research funds. And if such an idea feels repugnant, it becomes difficult to argue why the conservation of the diversity that disabilities bring onto the world is at any point morally laudable.

Finally, there is another criticism that authors such as Thomas Pogge have raised against proposing genetic enhancement as an improvement of the lottery of the worse off. Following a Rawlsian approach, Pogge (1995) claims that institutions should only be concerned with the distribution of social goods and therefore the appropriate treatment for disability is their compensation. Thus, genetic interventions to modify the consequences of the genetic lottery would go beyond the scope of justice, as genetically modify individuals is not among the aims of justice. This contrasts with the defence other authors have made of enhancement, raising the question on whether it should actually be part of the health care service (Buchanan et al. 2000).

Another disagreement with regard to what justice requires us to do is shown in a last critique towards genetic enhancement. According to some, genetic enhancement would not be an instance of help, and therefore would be impossible to consider it part of a social policy. On the contrary, they follow, what enhancement does is getting rid of the worse off—by normally preventing their existence as disabled individuals by modifying their endowment and normally their ADN—rather than helping them overcome their difficulties once they are born. This difference responds to a more basic disagreement about the role of justice and how to understand equality. Under Elizabeth Anderson's (1999) or Samuel Sheffler's (2003) understanding of social justice, democratic equality should guarantee equality of respect through appropriate relations among human beings, treating people 'as they are'. The negative aim of egalitarianism should be to end oppression, which is socially imposed, but not to eliminate the impact of brute luck from human affairs (Anderson, 1999, 288). But isn't treating people as they are too inegalitarian, when the way they are could have been improved?

The previous objection can be answered. One of the main reasons to request for euthanasia is by claiming for humanitarian help for the person who is undergoing an unbearable suffering situation that becomes impossible for the individual to overcome and which makes the individual's life therefore not worth living. The fact that the person in question will not exist after the performance of assisted suicide does not override the possibility assisted suicide being an instance of help. Alleviating suffering by eliminating the situation that causes the suffering can also generally count as an instance of beneficence.

We have seen that ultimately one of the best ways to analyse the issue of disability and enhancement is by focusing on the unnecessary future suffering that enhancements would prevent, as well how much inequality they would reduce.

#### 4. Conclusion

We have seen there are two main approaches to disability: the natural and the social one. We have also seen different means to achieve equality among disabled and non-disabled individuals.

For the natural account of disability, an equal society could propose the compensation of disabilities through a shift of resources from the non-disabled to the disabled individuals. But resources are not enough for the cases of intellectual disabilities and the compensation while maintaining disabilities seems not to be fair in many cases. An egalitarian social account of disability proposes readapting the social world to those with disabilities. The case of intellectual disabilities challenges this approach to disabilities as it drives use to some counterintuitive and impossible things to do. Thus, we proposed enhancement as a way of achieving future equality among individuals. Finally, we raised some possible objections to the use of this technique for the achievement of equality with respect to disability and answered to them.

A final potential problem for the enhancement solution defended here can still be made. In a future world in which enhancement is performed as a common practice the number of people who are born with disabilities would be reduced considerably to the point that almost nobody is born with a disability, but at least *some* people are born with a disability. If enhancement considerably reduces the birth of people with disabilities but does not eliminate it, it can be argued that the equality of the new distribution would be worse than the inequality of the original case we started criticising. Although a situation in which many are badly-off is more unequal than a situation in which just a few are badly off— according to the additive principle of inequality—, the inequality that would affect the remaining disabled individuals could be seen as particularly bad.

Although the previous argument itself could be expanded longer, a possible quick response to it would be to say that more suffering is avoided under the enhance-

ment scenario, as there would be fewer lives that would have to live with a disability. Nevertheless, this solution, although plausible, would move us away from considerations of strict equality.

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