

**NUSSBAUM'S CAPABILITIES APPROACH: FUNCTIONAL
ACCOUNT FOR HUMANS AND TELEOLOGICAL ACCOUNT
FOR THE NONHUMAN SPECIES**

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DECLARATION

I declare that the dissertation entitled “Nussbaum’s Capabilities Approach: Functional Account for Humans and Teleological Account for Nonhuman Species” submitted by me for the fulfilment of the requirements for the award of the degree of **MASTER OF PHILOSOPHY** of this University is my own work and has not been previously submitted for any other degree of this or any other University.



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CERTIFICATE

We recommend that this thesis be placed before the examiners for evaluation.


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Introduction

Human functioning forms an irreplaceable part of Nussbaum's capabilities approach. The three chapters deal with the capabilities approach in different ways. Chapter one studies capabilities approach within the context of the notion of functioning based as it is on Aristotelian ethics. Chapter two also studies capabilities approach but from the perspective of teleology, once again Aristotelian in nature. It is of importance to note that the first chapter deals with human beings, while the deal has got more to do with the nonhuman species. With the first two chapters basing the irreplaceable element of human functioning on Aristotelian precepts, one may at places find the expression, Aristotelian of Martha Nussbaum. Moving further with the elaboration of the capabilities approach, the third and the final chapter reduces itself to discussing the capabilities approach and its realization, something which is also non-Aristotelian in short yet an important way.

Human capacities and their realization is presumably the most sorted-out way of explicating on, when I say, Aristotelianism of Martha Nussbaum. A human capacity set in the context of Aristotelian philosophy is inextricably linked to two Aristotelian precepts— one, virtues; two, desire. And the basis of both is action. While in virtues, action plays its role by assigning itself a proper place in practical wisdom; in desire, its role is premised on choice. So the first is a calculation that puts individual, to the forefront, imbued with virtues (and subsequently wisdom). The second element is desire with a subsequent role to play in lives of both human and non human species. This contribution has been taken forward in different forms by Nussbaum. The virtuous individual forms the base for her capabilities approach; the desire and its connection with various thought processes, forms a major part of her discussion on compassion for non human species. The first two chapters invariably deal with this. The third chapter, on the contrary, is a move into a non-Aristotelian direction. The departure so presented (by Nussbaum), is actually a

representation of a new definition of the capabilities approach. Aristotelian world view is unique, says Young¹. It is unique because Aristotelian ethics provide a life based on virtue, where there is no difference between good man and good for man, or eudaimonia (happiness), as Aristotle called it². This happiness is concerned neither with desire fulfillment nor with pleasure seeking³. “The question of finding out whether any particular kind of thing can be happy ultimately boils down to the problem of discovering what function that kind of thing has. We can only truly flourish when we have discovered what we are for, and what we can be sure that we are indeed living in a way which will most effectively accomplish that purpose. Happiness, quite simply, consists of fulfilling one’s natural function, completing one’s coming into being and actualizing one’s potential to the best of one’s ability⁴.” As said above that the involvement of the being, for good life, is a natural process along with a judicious use of virtue (or reason), the explanation is incomplete without a approaching the “distinctive essence⁵” of human beings.

The beginning of an explanation on Aristotle’s ethics is the individual who is to be defined within the parameters of virtue. For Aristotle, individual is neither individualistic nor atomistic. The animal kingdom or the human community, both have their relational laws and are therefore sociable in nature. Aristotle thus defined virtue in the form of ‘ethos’⁶, i.e. that virtue does not consist merely in theoretical knowledge dependent on as to what a

1 Young, Mark A, *Negotiating the Good Life- Aristotle and the Civil Society*, Ashgate Publishing Limited (2005).

2 A soul in good state is one of the pre-conditions for happiness or eudaimonia because, as Young says, there is no law beyond human nature. Therefore humans must be true to their nature as there is no artificial law residing outside of human body.

3 Ibid 18

Aristotle made it very clear in *Nicomachean Ethics*, says Young, that human happiness is a vast concept, involving the ‘ultimate end of living’ as well as an ‘individual’s exercise of autonomy’ in the form of virtue. The substance of life is different from feelings or sensations of good life. This is the reason why good life is much beyond pleasure or desire.

4 Ibid

5 Ibid 21

6 Dallmayr, Fred, *In Search of the Good Life- A pedagogy for Troubled Times*, The University of Kentucky Press (2007), p 98.

person is like. Another correlative of human virtue, apart from theoretical knowledge, is practical reasoning⁷. The intellectual virtues discussed by Aristotle in *Nicomachean Ethics*, while praising the morally virtuous activity, in a way according to Lear, highlighted the “structural similarity between theoretical and practical wisdom”, a similarity emphasized by Aristotle.

A complete description of virtues thus involves eudaimonia or good life to be achieved through knowledge, knowledge in the form of theoretical and practical reason. Most importantly the proper exercise of theoretical and practical reason is what bonds happiness with virtue. The reasoning gets its ultimate form through good life that is promoted in the process, evident as it is from the statement- the highest good gives order to our pursuit of goods that we already value for their own sake⁸. The mediator between the good life and reasoning is the end or goal. There are two kinds of ends: ends that are mere stopping points and ends that are natural conclusions or fulfillments. The latter falls under the category of telos. The above was a description of the human good, related to happiness or virtues, something which is also the origin point of telos. Now we move on to an explanation of telos. Charles has equated teleology with action complementary to agent’s knowledge⁹ (or choice). An Aristotelian understanding of telos is best given in *Physics*, where Aristotle has offered a technical understanding for the word. Teleology here has been explained within the context of actions, wherein ‘actions are essentially the realisations of the agent’s capacities¹⁰.’

While essence is the capacity to promoting eudaimonia, desire is the capacity to perform an act. Thus “desire produces action and is itself produced by an antecedent psychological

7 Ibid p 93

8 Ibid

9 Charles, David, *Aristotle’s Philosophy of Action*, Duckworth Publishers (1984), p 2.

10 Ibid 64

state: imagination, perception or thought¹¹.” Charles explains that desires are the efficient causes of action and the actions so studied by Aristotle, are voluntary actions. Voluntary actions are caused either by a desire to just do the actions or a desire to do an action in order to achieve a further goal and the desire to an action involves bodily movement. Charles has named this connection between bodily movement and desire as ‘efficient causation’. An account of voluntary actions necessarily involves both efficient causation and knowledge (theoretical and practical reason), absence of one renders the notion of voluntary action incomplete. The efficient-causal account has been discussed in books like *De Motu*, *De Anima*, more or less used to highlight the anti-reductionist strand within Aristotelian philosophy. At the moment a description of this account is unnecessary as well as out of the scope of present work. The matter of our ultimate concern is the relation between desire and bodily movement. The starting point of this is the psychological processes of a living being with involvement of both form and matter.

Psychological activity is the exercise of various capacities and potentialities, and it is a part of natural activity. A natural thing is a composite of form and matter where the former is the natural activity of the body. The term nature also applies to matter, as a result of which activities (or capacities) resulting from matter are also treated as a part of the natural activity. For Aristotle activities like nutrition, growth, appetite, thought and perception distinguish living from the non-living beings. These capacities make human a self

¹¹ Ibid 58

Voluntary acts are acts chose for the sake of achieving a goal or purpose, unlike those wanted for their own sake. The acts falling in the former category also fall into the category of non coerced actions. These actions, at places in *Nichomachean Ethics*, according to Charles, have been categorised as intentional acts. This categorisation is irrelevant for the current study on teleology. Moreover Aristotle has also classified goal into two types: one, where goal is the activity itself, and there is nothing beyond the self; second, goal is different from the activity, for example construction of a house. Here the end product is the building, very much outside the individual. The former type of goal is called praxis, the latter, production. David Charles has also highlighted a very interesting distinction between basic acts and praxis. The former category acts are similar to acts that are not voluntary in nature.

determining and self-maintaining entity. For example perception has an important role to play in desire, all this followed by changes in bodily movement.

Taking a cue from the previous arguments, the third chapter also deals with the thought processes, although in a different light. Though these processes assist in bodily movement yet there is something beyond the psychological movements. While in chapter two the psychological activities category has been invoked by Nussbaum to enunciate well on her approach towards non human species; the last chapter includes, apart from psychological activities, the physiological characteristics of a living entity.

Chapter 1: Constructivist Essentialism

Abstract: The category of individual plays a very crucial role in Kantian, Aristotelian and Rawlsian philosophy. The undisputed role of an individual presented by the aforementioned authors in their characterization of theory, has Nussbaum also familiarizing her capabilities approach with the similar conception of an individual. The common thread that runs through the philosophy of Kant, Aristotle and Rawls is the aim of philosophy that treats individual as the centre stage of it all. Therefore Nussbaum also without deviating from the individual centered task of philosophy establishes the fact that the aim of philosophy is also practical. Part I deals with a conception of the individual or person as in Rawlsian morality (developed in Kantian constructivism), and place of individual as in Kantian and Aristotelian definition of philosophy, within the context of Kantian and Aristotelian ethics. There is however fundamental departure points from both Rawlsian and Kantian theory that brings her capabilities approach closer to Aristotelianism.

It is while analyzing the capacity of moral person that Rawls, despite juxtaposing Kantian conception of person with his first principle of justice, moves away from this juxtaposition. It is no longer the Kantian moral person but a Rawlsian 'determinate moral person'. Therefore to study the departure from both Kant and Rawls, we rely on Rawls's non-Kantianism. This move to dissociate is through reflective equilibrium and thick veil of ignorance, which leads ultimately to Rawlsian notion of 'primary goods'. Thus Part II begins with this.

The list of primary goods is the takeoff point for Nussbaum's capabilities approach. It is closest to Aristotelianism because the book *Politics* treats an individual as a political animal and the idea of human dignity, as in Nussbaum's capabilities approach, stands at ease with this. Thus Part II deals with Rawls's departure from Kantian conception of an individual leading to the theory primary goods. Second, it also looks into the role of an individual, as developed in Aristotle, within a specific social context. All this along with an expression, by Nussbaum of incompleteness of primary goods list.

Part I

“My Aristotelian view is a form of political liberalism, meaning to say liberalism that recognizes the importance of respecting diverse ways of life, including reasonable, non liberal forms. In the process, my Aristotelianism has increasingly been influenced by the ideas of John Rawls and Kant.”¹

Nussbaum’s essentialism hinges between Aristotelian and Kantian ethics with prime focus on the individual. This individual has been treated by both Kant and Aristotle, as an essential element in the aim of political philosophy. Rawls also treats this individual an essential party to this aim (of philosophy), and Nussbaum treats it no different when she claims that the aim of philosophy is also practical. But Nussbaum’s liberalism is to be treated as arising from between this hinge when she lays claim on the capabilities approach as different from Rawlsian and closer to Aristotelian conception of the person, a conception that espouses on the dignity, happiness, virtue of an individual. Part I is a discussion on the individual as in Kant and Aristotle, defined within the parameters of the aim of philosophy. Part II relies on Rawls’s Kantian conception of the person, which also represents for Rawls a move away from Kantian precepts (basically on moral individuals’ capacity), thus making us head towards Aristotelian conception of the person. Essentialism, a suchlike of the capabilities approach is² at two levels- Level 1 concerned

¹ Nussbaum, Martha, *Fragility of Goodness*, Cambridge University Press (2001), p XX.

² Nussbaum, Martha (1992), Human Functioning and Social Justice- In Defense of Aristotelian Essentialism *Journal Political theory*, Vol (20).

The article starts with the assumption that the term ‘essentialism’ is today becoming a dirty word in academic circle. There are various charges leveled against it like it neglects differences across cultures, it neglects autonomy (discussion on this is outside the scope of this chapter), these charges however can not downplay the role of essentialism, as it is theory that gives considerable importance to human life. Though Nussbaum calls it Aristotelian Essentialism, yet Aristotle also prejudicially applied this in his discussion on human flourishing.

An essentialist adhering to this approach is an ‘Aristotelian Essentialist’, committing herself to the ‘capability for good functioning’, which also means bringing each and every person within the approach, irrespective of the various differences that might exist across time and place. The capabilities approach is at two levels- one at the level of a human being; second, at the level of public policy. (Thus the task of an Aristotelian Essentialist is two fold- first, to refute the criticism leveled against essentialism, through Aristotelian notion of plurality; second, at the level of public policy, to critique the utilitarian stance of treating individuals as only instruments of pleasure and pain)

See p 231.

Level 1 is a list that comprises of both limits and capabilities, while in Level 2, human reason and affiliation play an important role.

with ‘the shape of human form of life’; and Level 2 as ‘basic human functional capabilities’. While Level 1 is the ‘minimal conception of the good’, Level 2 is a complete version of the former level, for it prepares a comprehensive list of human capabilities without negating the element of humanness present in it³.

Level 1 a base for level 2, hints at the development of capabilities along with a particular conception of the person. Thus acting in tandem, the two make an individual the cornerstone of capabilities approach, which itself has a linear perspective to be looked at from. While the perspective on individual hinges between Aristotelian ethics and Kantian constructivism, the ensuing capabilities approach, with starting point in the social contract theory, represents an approach as arising from between this hinge.

“Liberalism holds the flourishing of human beings as analytically and normatively prior to the flourishing of the state or nation⁴.” This quote actually defines the scope of this chapter, instrumental as it is in outlining the facts implicit in Aristotelian theory and explicit in Kantian theory. Aristotelian ethics specified on the flourishing of human beings, discussed here in the form of possession of virtue/wisdom; Kantian theory, on the other, emphasised on the moral individual.

The starting point of the preeminence of individual in both Kantian and Aristotelian ethics is the intertwining of aim of philosophy with the individual. Theory must remain committed to ways human beings live, act, see- to the pragmata broadly constructed⁵. Espousing on the significant role being played by the definition of theory or philosophy

³ Nussbaum herself calls it a vague list, though in a good sense. It is so because the list’s defining feature, which is essentialism, bases itself on a non biased conception of the person, a base without which the conception would be incomplete or would even mean an end to human form of life (see page 215). Moreover a thick vague conception of the good is a good defense of not only the list of basic capabilities but also of the essentialist proposal. Human reason also forms an important part of Level 2, derived as it from Kantian Constructivism. The term ‘Thick Vague Theory of the Good’ has been coined to mark the importance of human functions in human life. The term is also to contradict the narrow conception of Rawlsian theory on primary goods, neglectful as it is of wide ranging differences, differences which the list developed by Nussbaum tries to encapsulate.

⁴ Nussbaum, Martha, *Sex & Social Justice*, Oxford University Press (1999), p-62.

⁵ Nussbaum, Martha, *Fragility of Goodness*, Cambridge University Press (2001), p247.

per se, Nussbaum has developed this very definition of theory to highlight on the importance attached to this very concept by philosophers like Aristotle and Kant.

To begin with, Aristotle (definition of 'Theory') in his lost work, is said to have written, "You must remember that you are a human being: not only in living well, but also in doing philosophy⁶." This being one of the major tasks of theory, Aristotle's, as Nussbaum clarifies, major complaints against his fellow philosophers was that that they isolate the human being too much in their studies, failing to link the study of the human with a comprehensive inquiry in to the functioning of living beings in general.

Kantian definition of Theory says, "We have then to develop the notion of a will which deserves to be highly esteemed for itself and is good without a view to anything further, a notion which exists already in the sound natural understanding, requiring rather to be cleared up than to be taught, and which in estimating the value of our actions always takes the first place and constitutes the condition of all the rest⁷."

For Kant nothing in the world is good without qualification except good will. The good will of an organized being constitutes an intrinsic part of a being and is thus an indispensable part of action. When Kant claims that the good of a will is good in itself and not anything further is that that the origin of action in this will is reason. Though reason is a tertiary category in this yet it is reason which influences our will, implanted as it is in the capacities distributed to us. The will is therefore good in itself, a supreme good with an irreplaceable role for reason.

Reason reinforces in an individual the ideal of duty. Though it is a tough calling to distinguish actions done from duty and those done from a selfish viewpoint, nevertheless the criterion for measuring this is the principle of goodwill. "A rational being belongs as a member to the kingdom of ends when, although giving universal laws in it, he is also himself subject to these laws. He belongs to it as sovereign when, while giving laws, he is

⁶ Ibid 263

⁷ Kant, Immanuel, *Metaphysics of morals*, [Online: Web] Accessed on 23 October 2010, URL: <http://www.gutenberg.org/dirs/etext04/ikfpm10.txt>

not subject to the will of any other⁸.” The conception of the will of every rational being as one denotes, what Kant calls, is kingdom of ends. By a kingdom is meant the union of different rational beings within a system by common laws⁹. Abstracting individual ends and interests and linking this with maxims¹⁰, we come across what Kant calls, a moral command¹¹. This moral¹² command, apart from having the force of law, in a universal manner, also possesses autonomy¹³ for an individual. This instils within an individual the willingness for duty, resulting thus in a systematic union of rational beings by common objective laws¹⁴. A rational being as a member of the kingdom of ends formulates, not only universal laws, but laws to which she herself is subject to¹⁵.

Aristotelian Individual

The Nichomachean Ethics confronts its reader with the following question: what is virtue and subsequently the place of knowledge in it. There are, pertaining to knowledge of different kinds, different subjects of inquiry to, which can all be studied, and pursued through action; fine and good actions that also aim at some good.. However there is one subject named political science, which is worthy of pursuit for itself, unlike others which are worthy of pursuit for something else. Political science as a maser art is imbued with the element of human action with an eye on an ultimate end. The ultimate end, worthy of pursuit for itself, also aims at things good in itself than good because of some other reason. Therefore knowledge is what students of political science should aim for, as this knowledge seeking would apparently assist is realizing virtue, virtue which is also the

⁸ Ibid

⁹ Ibid 35.

¹⁰ Ibid

¹¹ This universal law, as Kant calls it moral command, is universal in nature because it is entrusted upon individuals in the sense of duty. In other words, universal laws have universal validity. A rational individual must see herself either as following laws or giving laws as a sovereign. Both require freedom of the will.

¹² For Kant, all attempts to discover the principles of morality have been a failure because they ask individuals to act not out of duty, but necessity. It is not a moral command because its origin is not a dutiful human will, but someone else's pejorative.

¹³ Ibid 40

The opposite of autonomy is heteronomy. Heteronomy is the source of all spurious principles.

¹⁴ Ibid 36.

¹⁵ This is an ideal system, according to Kant. In this kind of system, every individual considers self as well as others, not just means, but ends also. Individuals thus have relations, in ends-means context, with each other and the laws. The principle of duty is dependent on this relationship.

good of a human being. “It legislates as to what we are to do and what we are to abstain from, the end of this science must include those of the others, so that this end must be the good for man¹⁶.”

Knowledge (of any kind) aims at some good and political science aims at that which is the highest of all goods, achievable through action. Thus good and action together constitute the good human life, wherein action plays the role of a mediator. Knowledge has many branches and sub-branches, in a similar vein, good also may be of many types. The distinctive element that distinguishes the chief good from its variables is virtues.

There are three kinds of lives based on virtue: happy, political, contemplative. The first kind of life is what explains the chief good as well as the end of action. “Happiness, then, is something final and self sufficient, and is the end of action¹⁷.” Happiness also has a number of variations, very much similar to knowledge and virtues.

The concept of ‘happiness as being’ is what marginalizes the various other definitions of happiness. The concept is in the backdrop of two elements: human function, as in *Nicomachean Ethics*. & practical wisdom, as in *Politics*. “Happiness is an activity of soul in accordance with perfect virtue¹⁸. We must consider the nature of virtue; for perhaps we shall thus see better the nature of happiness.” It is necessary to consider this ‘for no function of man has so much permanence as virtuous activities and of these themselves the most valuable are more durable because those who are happy spend their life most readily and most continuously in these; for this seems to be the reason why we do not forget them¹⁹.’

Virtue is a state of character dependent primarily on choice in the following explained way. Human virtue and happiness are both concerned not with body but soul. Says

¹⁶Aristotle, *Nicomachean Ethics*, [Online: Web] Accessed on July 15 2010, URL: classics.mit.edu/Aristotle/nicomachaen.html

Nicomachean Ethics (from now on addressed as NE) Book I(II)

¹⁷ NE Book I(VII)

¹⁸ NE Book I (XIII), p11.

¹⁹ NE Book I(X), p 9.

Aristotle, 'the student of politics, then must study the soul, and must study it with these objects in view, and do so just to the extent which is sufficient for the questions we are discussing²⁰.' Breaking the above argument into two- conditioned object and extent- for simplicity sake, we reach an altogether different level of understanding on virtue. The object to be studied by soul, subject to three conditions: knowledge, choice to perform an act, state of character²¹. The extent, on the other, to be determined by one of the following- passions, faculties or states of character²², which in this case is states of character.

"We must examine the nature of actions, namely how we ought to do them; for these determine also the nature of states of character that are produced²³," says Aristotle. The chief determinant for the nature of state of character is thus nature of action, based as it is on choice.

An analysis of Aristotelian virtue would be incomplete without a consideration of the specific nature of virtue. The specific nature of virtue places it between excess and defect categorically stated in Book II(VI). As laid down by Aristotle himself- "Virtue is more exact and better than any art, and must have the quality of aiming at the intermediate, that is excess, defect and the intermediate. For instance both fear and confidence and appetite and anger and pity and in general pleasure and pain may be felt too much and too little, and in both cases not well; but to feel them at the right times, with reference to the right objects, towards the right people, with the right motive and in the right way, is what is both intermediate and best, and this is characteristic of virtue. Now both excess and defect is treated as a failure while intermediate is praised and is a form of success; and being praised and successful are both characteristic of virtue. Therefore virtue is a kind of mean, since, as we have seen, it aims at what is intermediate²⁴".

²⁰ NE Book I(XIII), p11.

²¹ NE Book II (IV), p15.

²² NE Book II (V), p16.

²³ NE Book II(II), p13.

²⁴ Book I(VI), p17.

Virtue is a state of character, based on choice lying thus in a mean. Important also is to note that the mean does not apply to every action, but to conduct. Within a conduct there are three kinds of disposition: two vice- excess, deficiency, and one virtue- which is the mean. Mean acting as the base for virtue is closer to things drawn from the thing itself than drawn from ourselves. The following three examples may clarify it further²⁵.

Pleasure and Pain- Mean is Temperance

Excess- Self-indulgence

Deficient- name not yet found

Giving and Taking- Mean is Liberality

Excess- Prodigality

Deficient- Meanness

Honor and Dishonor- Mean is 'Proper Pride'

Excess- Empty vanity

Deficient- Undue Humility

To round off the above argument, virtue is an intermediate between two extremes, an intermediate²⁶ between excess and defect. Consequent of this is the association developed between virtue and action, as book II, which may lead us to sometimes incline to the excess, sometimes to the defect, and at some point hit the mean. This assists in revealing another characteristic of action- voluntary and involuntary acts, based on the spur of the moment²⁷. Acting by reason of ignorance composes the involuntary act and acting in ignorance is what defines the voluntary act. What thus follows this distinction is the

²⁵ Book II(VII), p18.

²⁶ An example being courage, which is a mean between fear and confidence, for who exceeds in fearlessness has no name and who exceeds in confidence is rash, while the one who exceeds in fear and falls short of confidence is coward.

²⁷ NE Book III (I).

mode of choice because it is choice²⁸ which helps in discriminating characters better than actions do.

With this we move into the domain of practical wisdom or deliberation. Choice involves rational principle and thought, therefore it is closely bound up with deliberation. Similar to choice, deliberation is also concerned with things that happen in a certain way. It deals with what Aristotle calls, 'possible things', things that might be brought about with our own efforts or by the efforts of our friends and acquaintances. Ends and means relationship also crops in here, for we choose and deliberate about means and wish for ends²⁹.

The end of every activity, as said, is conformity to the corresponding state of character. A virtuous human would try to harmonize the appetitive element with the rational principle. Thus virtue, voluntary act, deliberate choice constitutes the means for pursuing virtuous activity, there is yet another means primordial to this. Education, or art, as Aristotle would call it, is concerned with every action and pursuit, and is thought to aim at some good. "Where there are ends apart from the actions, it is the nature of the products to be better than the activities, says Aristotle³⁰." While equating this art with activities, Aristotle has tried to evolve a master art which would deal with activities under a single capacity, an art which promotes something other than the aim. This new activity is "knowledge", which can be truly promoted by a master-art, the master art being political science³¹.

There are two kinds of virtues- moral and intellectual. While we owe the former to both birth and teaching, the latter relies on habits. As Aristotle explains that all those things

²⁸ Choice is voluntary, but is slightly different from the voluntary act, for the latter extends to include within it animals and children. Moreover, acts done on the spur of the moment can be described as voluntary but not chosen.

²⁹ An example can be of a doctor or an orator, who does not deliberate on whether it should heal (doctor) or persuade (orator).

³⁰ NE book I (I)

³¹ The most highly esteemed capacities, according to Aristotle, fall under this subject, example economics, strategy, rhetoric etc. Politics apart from utilizing the other sciences, also legislates on what we are to do and what not, it in this way aims at the highest good of human.

that come to us by nature, we must first acquire the potentiality and later exhibit the activity. Thus virtue is a state of character on which depends the nature of action³². A just human, according to Aristotle, by doing just acts becomes just and thus gains the highest prospects of becoming good. In a similar manner, a law abiding human is just and so is her/his act lawful³³. This falls within the ambit of complete virtue, wherein this just human, who is also good tempered³⁴, performs its best to form a harmonious and just political society.

We now have justice as not part of virtue but virtue proper or entire virtue. There are two kinds of justice- proportional and rectificatory. In the former, there is a distribution of common resources in proportion, in the latter, it is a transaction between individuals, thus garnering within themselves an additional quality of equality³⁵. Further it is important to note that a person who indulges in just and unjust acts, acts voluntarily, on the other, the person who does neither just nor unjust acts, acts involuntarily³⁶.

With the above description, the discussion on of practical wisdom/deliberation moves to a new and different level, elaborated in the book Politics. Wisdom is the result of a deliberate choice; choice which is itself product of human reasoning and intellect. Practical wisdom aims to treat human as a political animal with an overt role to play in firm establishment of a political society. This is what Aristotle has termed as 'productive intellect' or 'practical wisdom'. Practical wisdom is a virtue as well as a reasoned capacity to act, it is the most finished forms of human knowledge. Practical wisdom is concerned with things human and things about which it is possible to deliberate, it is so as a result of

³² Since virtue is related to action and passion, and every action and passion is concerned with pleasure and pain, virtue is therefore also related to pleasure and pain. This pleasure and pain aspect has been discussed more elaborately in the second chapter, since it's related deeply to human's preferences and passions.

³³ NE Book V (I).

³⁴ Good tempered nature of human being has been discussed more clearly in chapter two, since this chapter deals exclusively with Aristotle's concept of human being.

³⁵ Aristotle has linked this latter form of justice with arithmetic proportion. This has been described as one resulting to injustice, giving a certain distinctive injury to the sufferer. Perhaps this is also the reason why Aristotle has tried to link this form of justice (rectificatory) with equality, for in these situations the judges try to rectify the wrong by equalizing the ill effects through penalty, in order to reclaim justice. No further explanation of this link between arithmetic equation and equality has been provided by Aristotle in book *Ethics*.

³⁶ NE Book V (VIII).

this concern with human action³⁷. It is important to distinguish between practical and political wisdom, for the former deals with matters that relate to individuals, the latter pertains to the relationship that exists between the universals and the particulars, the best example of it can be affairs of a city, wherein the individual decisions are being taken up for collective good³⁸.

The Book Politics deals with human as a political being with inherent potential for political activity, leading in the direction of practical reason and justice. Polis as the most authoritative human community is something which the book Politics begins with, while rejecting alongside the claim that politics is all about ruling others. On the contrary, it stands for the 'purpose served by such a rule'.

In NE, political science, as a master art had to distinguish itself from other various forms of knowledge as well as the variables of life based on virtue (happy life, political life, contemplative life) in order to evolve complete life based on chief good, the chief good being happiness. Similarly Politics also invokes the same argument that politics needs to be distinguished from various forms of mastery that resemble political life. "The reason for this is that the regime, the particular aspirations and institutions that define the actuality of any polis, as Aristotle understands it, embodies an answer to the question apparently inseparable from human life. What is the best life for a human being? Thus Aristotle's claim about the priority of politics to individual life is not an assertion of the superiority of the collective to the individual interest, and it certainly does not mean that we should take our identity from our role as citizen of a particular regime. Instead, it is an assertion of the priority of living well to living, of the form of a human life to its matter, and of the centrality of the question of the best life³⁹." For the author participating in political life leads towards two sets of human goods: the instrumental goods directed

³⁷ Practical wisdom's concern with human affairs makes it differ extensively from philosophic wisdom, evident as it is from the work of philosophers like Thales, Anaxagoras etc, who were possessed with intense philosophic wisdom but were ignorant of practical human problems.

³⁸ NE Book VI (VIII).

³⁹ Salkever, Stephen, *The Cambridge Companion to Ancient Greek Political Thought*, Cambridge University Press (2009), p 226.

toward security and self-preservation, and the intrinsic goods associated with human virtue and flourishing.

Rawls's individual

Taking a leaf out of the argument in the previous section, we come across a Rawlsian individual who also has a definite role to play in political philosophy. The first principle of justice aims at conceptualizing a moral person with implicit principles deemed capable of self reflection, thus lending a helping hand to the appropriation of a political agreement. This, a Kantian perception, for Rawls is the main aim of political philosophy. Therefore the public conception of justice understood from a suitably constructed social point of view (which everybody can accept), leads towards a well ordered society instantaneously⁴⁰. Rawls explains that the task of this philosophy is also practical. With this purpose in place he places the individual, in Kantian terms- as rational suitable objects of construction.

“What justifies a conception of justice is not its being true to an order antecedent to and given to us, but its congruence with our deeper understanding of ourselves and our aspirations, and our realization that, given our history and the traditions embedded in our public life, it is the most reasonable doctrine for us⁴¹.” Kantian constructivism replaces moral truth with moral objectivity. How? The Kantian individual is someone who is both rational and reasonable to be aware of her various aspirations that coincide well with the shared political principles, principles which, as said in the beginning, are formulated to govern public culture. This is what concerns moral objectivity where an individual is motivated to acknowledge those principles of a public culture which are otherwise a part of convictions of various individuals shared in common, unlike moral truth which is fixed⁴².

⁴⁰ Rawls, John (1980), *Kantian Constructivism in Moral Theory*, *The Journal of Philosophy*, Vol(77), *Journal of Philosophy Publications*, p 519.

⁴¹ Ibid

⁴² The idea of social cooperation inherent in the person operating freely and rationally in the formulation of various principles for public culture is the motivating factor behind the Rawlsian conception of ‘Justice as Fairness’. Before we proceed, note that the issues discussed above lead to what is called the ‘public

“Kantian constructivism holds that moral objectivity is to be understood in terms of a suitably constructed social point of view that all can accept⁴³.” A firm formulation of principles of justice requires the overcoming of the various disagreements that exist over the formulation of basic institutions of a just society, ignoring also the particular social and historical circumstances. The formulation requires an agreement which in the Kantian sense is not just about reasoning on the existing convictions but also putting in a new mould the already existent certain common principles (convictions that exist in the common sense). The aim of political philosophy is thus to make possible the democratic realization of these ideals, so present in the common sense of the people, in the public culture. Thus the first and foremost requirement of Kantian constructivism is the conception of a person, a person who is both free and equal and has the capacity to act reasonably and rationally.

In the next section we discuss the Rawlsian individual different from the Kantian person. Before proceeding with this, it is interesting to study the way in which the same has been highlighted by Sandel. Sandel has in a different manner distinguished between the Kantian and Rawlsian conception of personhood. According to him, though Rawlsian definition of person is based on Kantian conception of the person, yet the transformation from transcendental subject to an unencumbered self (belonging to Rawlsian definition), is something that differentiates Rawlsian person from a Kantian definition of this very same person. Note that the concept of individual, defined in different ways by Kant and Rawls, sets the stage for the priority of the right over good.

conception of justice’, a conception which allows individual to root her convictions in the formulations (of principles for the society) and add them also to the collective principles governing the society. The motivating factor has been termed by Rawls as model conception, with two basic principles operating under it- well ordered society and a moral person. There exists one more principle which is the mediating factor between these two principles- the ‘original position’. People, who have been addressed as the parties, in the original position in a well ordered society are rational autonomous agents of construction. In this society regulated by a public conception of justice, the individuals see themselves as free and equal moral persons. How do these individuals deliberate? They deliberate through full autonomy which is itself lead by two principles: fair terms of cooperation wherein an individual is expected to be reasonable; second, by being rational they deliberate on principles which are rationally sensible.

⁴³ Ibid

The guiding principle of liberal philosophy is the priority of the right over good; and both Rawls and Kant define it in different ways; based as all these are on human purposes and ends. The liberal ethic asserts the priority of right, and seeks principles of justice that do not presuppose any particular conception of the good⁴⁴. While for Kant, this is in the form of moral law; for Rawls, it is the concept of justice that acts as the first virtue of social institutions.

Kantian definition of right goes like this: this moral law presupposes a definition of right which has nothing to do with ends of the individual or 'with the end all men have by nature or the recognized means of attaining this end'⁴⁵. So says Sandel, "Only when I am governed by principles that do not presuppose any particular ends am I free to pursue my own ends consistent with a similar freedom for all⁴⁶." This is so because a reliance on a person's (or a group's) concept of happiness would lead to overriding the conception of ends of others, thus imposing a conception of one or few on others (who could not play any role in the determination of this concept). According to Kant, says Sandel, "the right is derived entirely from the concept of freedom in the external relationships of human beings, and has nothing to do with the end which all men have by nature or with the recognized means of attaining this end⁴⁷." All this makes an individual a intelligible being capable of exercising autonomy of the will. This is the Kantian transcendental subject.

"To develop a viable Kantian conception of justice the force and content of Kant's doctrine must be detached from its background in transcendental idealism and recast within the canons of a reasonable empiricism⁴⁸." Rawls's strand, on other is based on a selection of principles of justice in the original position. These principles, as they proceed with their predicaments are based not on a system of ends but a conception of the person. This is the definition of an unencumbered self which allows the possibility of a

⁴⁴ Sandel, Michael J (1984, *The Procedural Republic and the Unencumbered Self*, Political Theory, Vol(12) 1, p 83.

⁴⁵ Ibid 83-84

⁴⁶ Ibid

⁴⁷ Ibid

⁴⁸ Ibid 85

distinction between the values I have and the person I am⁴⁹. In Sandel's words: it is not our aims that primarily reveal our nature, writes Rawls, but rather the principles that we would acknowledge to govern the background conditions under which these aims are to be formed. Only if the self is prior to its ends can the right be prior to the good. Only if my identity is never tied to the aims and interests I may have at any moment can I think of myself as a free and independent agent, capable of choice⁵⁰.

⁴⁹ Ibid

⁵⁰ Ibid 86

Part II

“Liberalism is not a single position but a family of positions. When I speak of liberalism, then I shall have in mind, above all, the tradition of Kantian liberalism, represented today in the thought of John Rawls, says Nussbaum.”⁵¹ Liberalism aims at equality of capabilities,⁵² the 'capability approach' being the backbone of the defence Nussbaum develops for reinstating liberalism to a favourable position

When speaking about liberalism or classical liberalism, social contract is the distinct contribution made by this school. This theory provides to an individual, in the state of nature, an equal view on justice. Rawlsian theory of Justice is a perfect representation of the social contract theory. The alleged charm of the theory, that individual as equal beings have a claim on justice, is still intact.

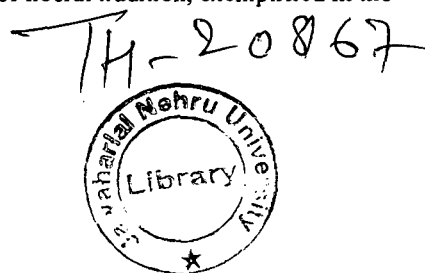
Rawls's theory of justice, says Nussbaum, is even today the most sophisticated contribution to our thinking about what justice requires when we begin from the idea of equal persons, their worth and capacities. We presuppose that the better way to analyse this is by revoking the category of individual developed in Rawls's Kantian constructivism.

Rawls explains that the task of this philosophy is also practical. With this purpose in place he places the individual in Kantian terms- as rational suitable objects of construction. The practical social task is primary for an individual. As a result of this the Kantian moral person is (in Rawlsian terms) a 'determinate moral person' leading towards not a public conception of justice but an effective public conception of justice. The mediator between the determinate moral person and a effective public conception of justice is the moral capacity. A moral person, as part of its moral capacity has two moral powers- first, to apply and act from the principles of justice; second, capacity to form, to

⁵¹ Nussbaum, Martha, *Sex and Social Justice*, Oxford University Press (1999), p-57

Nussbaum has placed classical utilitarianism also within this family of liberal tradition, exemplified in the work of John Stuart Mill.

⁵² Ibid 68.



revise, and rationally to pursue a conception of the good. This mediation also represents the fundamental departure point for Rawls from the Kantian conception of the person.

Conception of justice has a social role to play on citizens who possess political reasoning. This political reasoning implicit in the people has not been addressed sufficiently to get an answer for the lack of consensus amongst these very people, when it comes to formulating the various principles for social institutions. So says Rawls, "The real task is to discover and formulate the deeper bases of agreement which one hopes are embedded in common sense, or even to originate and fashion starting points for common understanding by expressing in a new form the convictions found in the historical tradition by connecting them with a wide range of people's considered convictions: those which stand up to critical reflection⁵³." This is the determinate moral person. The 'determinate moral person' can be looked at from two Rawlsian perspectives- one, moral capacity (discussed above); second, thick veil of ignorance.

Kantian person lives in 'thickest veil of ignorance', for Rawls's, on the other; it is 'thick veil of ignorance'. While the Kantian person in possession of implicit principles is presumed to know the complete body of truth, Rawlsian determinate moral person is said to possess only partial truth. To cut it short, the practical aim of person in Rawlsian terms has semblance with role of person living in the midst of thick veil of ignorance, in justice as fairness. The discussion would be incomplete without an elaboration on the original position. A determinate moral person, well ordered society, the two as part of Rawlsian model-conception of justice, relate to original position. Original position, a third model conception is also a mediating factor between the two of them. "The constraints imposed on the parties in the original position, and the manner in which the parties are de-scribed, are to represent the freedom and equality of moral persons as understood in such a society⁵⁴." With the three model conceptions, we have an 'effective public conception of justice'.

⁵³ Rawls, John (1980), Kantian Constructivism in Moral Theory, *The Journal of Philosophy*, Vol(77)9, p 518.

⁵⁴ Ibid 520

The Rawlsian argument is thus a vast expanse of principles that culminates finally into justice as fairness. Predecessor of this culmination is first an individual with a practical aim to fulfill (analysed through Kantian conception of person); second, the practical aim oriented person has a part to play in formulating an effective public conception of justice- as in Rawls's original position. This culmination is a move not only into non-Kantian terrain, but also a trajectory with an altogether different focus- the focus now being on primary goods and reflective equilibrium.

The best account of a person's sense of justice is not the one which fits his judgments prior to his examining any conception of justice, but rather the one that matches his judgments in reflective equilibrium⁵⁵.

In describing our sense of justice an allowance must be made for the likelihood that considered judgments are no doubt subject to certain irregularities and distortions despite the fact that they are rendered under favorable circumstances⁵⁶. Thus the thick veil of ignorance is the direct predecessor of reflective equilibrium. It is treated as a principle of considered judgment, and reflective because we now finally know to what principles people agree to. The principle of reflective equilibrium is the most reasonable conception for the view as 'a whole meshes with and articulates our more firm considered convictions, at all levels of generality, after due examination, once all adjustments and revisions that seem compelling have been made⁵⁷'.

"Regardless of what an individual's rational plans are in detail, it is assumed that there are various things which he would prefer more of rather than less. With more of these goods men can generally be assured of greater success in carrying out their intentions and in advancing their ends, whatever these ends may be. The primary social goods, to give them in broad categories, are rights and liberties, opportunities and powers, income and wealth⁵⁸."

⁵⁵ Ibid 488

⁵⁶ Ibid

⁵⁷ Ibid 534

⁵⁸ Rawls, John, *Theory of Justice*, Harvard University Press (2001), p 92.

The veil of ignorance motivates rational parties to pursue only highest order interests. The highest order interests are in turn social goods, classified under the category of primary goods. Primary goods are singled out by asking which things are generally necessary as social conditions and all-purpose means to enable human beings to realize and exercise their moral powers and to pursue their final ends (assumed to lie within certain limits)⁵⁹. Primary goods are necessary means, says Rawls, for the rational individuals irrespective of the different ends they pursue⁶⁰.

Rawlsian departure from Kant, as represented in primary goods, reflective equilibrium, presents to us the take off point for Nussbaum arguments on liberalism.

The beginning of the chapter started with a description of capabilities approach at two levels. Now with the description of both the levels almost complete, we go to derive the conclusion that the capabilities approach is derived from Aristotelian notion of human functioning and Rawlsian notion of primary goods. While the former has been assayed through the concept of a human being as in Ethics, the latter is treated as an extension of the list. "Only a broad concern for functioning and capability can do justice to the complex interrelationships between human striving and its material and social context."⁶¹

A connection has been developed between Rawlsian and Kantian work because both harp on the need to, first, identify the moral order, through moral worth of an individual, and then, attach this moral ordering with human action, action which comprises of the duty of an individual towards society. This is the overall definition of Rawlsian individual with an effective conception of justice. Aristotelian individual, on the other, is a political animal with capability of human flourishing. Both the above provide material and social context for the list of capabilities.

⁵⁹ Rawls, John, Kantian Constructivism in Moral Theory Author: John Rawls Source: *The Journal of Philosophy*, Vol. 77, No. 9 (Sep. 9, 1980), p 526.

⁶⁰ Rawls, John, *Theory of Justice*, Harvard University Press (2001), p 93.

⁶¹ Nussbaum, Martha, *Women and Human Development*, Cambridge University Press (2000), p 70.

Nussbaum's theory on Essentialism⁶² forms part of an objection to the Rawlsian theory of primary goods as well as an affiliation to Aristotelian conception of ends that make individuals strive for their flourishing.

Rawls's dual allegiance to classic social contract doctrine and to the core ideas of Kant's moral philosophy is a source both of illumination and profound tension in Rawls's theory⁶³. Social contract treats the two questions, otherwise distinct, as similar to each other- 'by whom are society's basic principles designed' and 'for whom are basic principles designed'⁶⁴. This is a source of illumination because Rawls's in this regard formulated his original position, which distinguishes parties that design the structure of a society. This however is a source also of profound tension as it fails to address the question of disability and species membership. While the original position is the theoretical equivalent of state of nature, as in social contract; the veil of ignorance is similar to Kantian idea of impartiality, where the persons are not to be treated merely as means for other people's ends. This is also treated as a source of tension because Kantianism excludes people with severe mental disabilities⁶⁵.

⁶² Nussbaum, Martha (1992), Human Functioning and Social Justice- In Defense of Aristotelian Essentialism, *Journal Political theory* Vol (20)2.

⁶³ Nussbaum, Martha, *Frontiers of Justice- Disability, Nationality, Species Membership*, Oxford University Press (2006), p 12.

Rawls, for Nussbaum, departs from the historical social contract tradition in one more way, that Rawls has formulated the various political principles from a set of principles, not stated formally anywhere. This formulation of principles leads ultimately to, in Rawlsian terms, pure procedural justice where 'correct procedure defines the correct outcome.

There may be various points of divergences between Rawls's theory and the social contract tradition (as Rawls himself narrates) yet he has himself pointed out the underlying similarities between these two theories; the most evident one being the similarity between state of nature and the original position. Despite these variations, Rawls's theory of justice is the most sophisticated contributions, says Nussbaum, as it deals with persons their worth and capacities (in fact it begins with this).

⁶⁴ Ibid 16

In the social contract tradition, the contracting parties come together to formulate principles that make possible the living together of these very contracting people. The chosen principles prove worthwhile in dealings with one another. The people who come together to create the contract thus formulate principles required, with the result that other interests and persons are either included at a later stage or derivatively through the contracting parties' own commitments etc. Also the parties that take part in deliberations come together with their own of abilities, a set that altogether excludes persons with disabilities. This exclusion also means that the principles so developed have no place for this excluded section.

⁶⁵ Ibid 146

There are certain precepts (Kantian) that very well guide political thinking, for instance the Kantian idea that each human being is an end and that none should be violated from the greater social benefit. However this very account excludes people with 'severe mental impairments from the start'.

There is a move away more so from social contractarianism, a move which brings her capabilities approach closer to Rawls's Kantianism in two ways: impartiality⁶⁶ and dignity⁶⁷. As Nussbaum explains in the 'capabilities approach, the account of the benefits and aims of social cooperation is moralized, and socialized from the very start'. Although the approach does not employ a hypothetical initial situation, it envisages human beings as cooperating out of wide range of motives, including the love of justice itself, and prominently including a moralized compassion for those who have less than they need to lead decent and dignified lives⁶⁸."

A compilation of dignity and impartiality brings the capabilities approach closer to Rawlsian theory in ways more than one, followed by a move absolutely opposite to this similarity. The former is through the notion of primary goods and reflective equilibrium. While the move away is generated by a rejection of Rawls's pure procedural justice, which contributes primarily to the capabilities approach.

Primary Goods, Reflective Equilibrium and the list of Capabilities

In ways more than one, the list is influenced by the notion of primary goods and reflective equilibrium. It is however distinct for another the reason, stated below. The distinctness leads Nussbaum to at the end color her capabilities approach with Aristotelian idea of a human being. First we look at the adherence to the two Rawlsian notions, then study the divergence that follows this; second, we study the Aristotelian individual, as providing a more complete basis for the list of capabilities.

⁶⁶ Ibid 156

The account of impartiality envisages the parties as coming together to cooperate on a range of motives, with the love for justice implicit in them, including a compassion for those who do not possess the necessary means to lead a dignified life. As Nussbaum says- in the capabilities approach, the account of benefits and social cooperation is moralized and socialized from the very start.

⁶⁷ Ibid 159

The concept of dignity is derived from Rawls's Kantian conception of the person, conception that apart from distinguishing humans from animals, distinguishes human rationality from animality. The capabilities approach thoroughly unifies animality with rationality, thus treating the world as containing various types of animal dignity. Rational is only one aspect of animals and it is one way of animal's way of functioning.

⁶⁸ Ibid 156

In a small way but with great vigor, similar to primary goods, the list of capabilities is like a 'long list of opportunities for functioning such that it is always rational to want them whatever else one wants'.⁶⁹ The first step towards truly human functioning is to accept the challenge to counter our deeply held moral intuitions in order to elevate to a favorable position the various conceptions that govern the list of human functioning in capabilities approach.

The focus is only on the notion of human dignity which takes its cue from Aristotle's notion of human being as a political animal. As Nussbaum explains that the capabilities are not understood as instrumental to a life with human dignity: they are understood instead as ways of realizing a life with human dignity, in the different areas of life with which human beings typically engage.

Rawls's theory of procedural justice is 'so front-laden, so to speak, has so much moral content packed into the procedure itself'⁷⁰ that it completely avoids the criticism dedicated to its orientation towards just the procedure. The capabilities approach, on the other, is like the criminal trial, that is, that it starts from the outcome alongside an 'intuitive grasp of a particular content, as having a necessary connection to a life worthy of human dignity'⁷¹. The moral content, says Nussbaum, goes into construction of a fair procedure than the right result/outcome.

Analytically we reach the conclusion that the capabilities approach, as based on primary goods and reflective equilibrium, imputes from itself, in order to give a life of dignity to a human, first, social contractarianism; second, Rawlsian pure procedural justice. Thus, clarifies Nussbaum, 'in the design of the political conception of the person out of which basic principles grow, we build in an acknowledgment that we are needy temporal animal beings who begin as babies and end, often, in other forms of dependency. We

⁶⁹ Nussbaum, Martha, *Women and Human Development*, Cambridge University Press (2000), p 88.

The argument proceeds from respect for persons and therefore also choice. A capabilities approach with functioning as its major goal has to have the appropriate space for choice. Choice is important in one more respect, that a function becomes ineffective if a person has to perform an act out of requirement.

⁷⁰ Nussbaum, Martha, *Frontiers of Justice*, Oxford University Press (2006), p 83.

⁷¹ Ibid

acknowledge, as well, that the kind of sociability that is fully human includes symmetrical relations, such as those that are central for Rawls, but also relations also of more or less asymmetry; we insist that the nonsymmetrical relations can still contain reciprocity and truly human functioning, says Nussbaum⁷².

Notion of Dignity with its roots in Aristotelian Human Being

At the end of it we however need to remember that the capabilities approach is a political doctrine about basic entitlements and not a comprehensive moral doctrine⁷³. There are two parts of argument now- one, political; second, moral. The former is Nussbaum's capabilities approach exemplified through dissociation with the social contract, a dissociation which also explains the latter. It is at this crucial departing point that Nussbaum has tried to expound on Aristotelian human being and its relation with the idea of dignity

One of the most impressive achievements of Hellenistic philosophy is to have shown how specific conditions shape these⁷⁴. Applying this in context of the definition of ethics (described above), we discover the task of theory whose task is to find a general account that fits the data⁷⁵. The above played a major role in ancient moral education⁷⁶. According to Nussbaum, there have been many versions of this idea, in one form it has been ascribed to Aristotle. Reverting back to the task or the definition of theory, by Aristotle⁷⁷, philosophy (or theory) is an activity that secures the flourishing life by arguments and reasonings⁷⁸. Logical rigor, precise reasoning, definitional precision are the tools that never cease to operate in this model of philosophy. Once one has discovered that philosophy's task is like the doctor's task, one can rely on that general understanding

⁷² Ibid 160

⁷³ Ibid 155.

⁷⁴ Nussbaum, Martha, *Therapy of Desire*, Princeton University Press (1994), p 11.

⁷⁵ If we define this task of theory in context of the definition of ethics, which is about studying ordinary thoughts and preferences, then the task of medical conception of ethics will be to study and collate the social health practices of a local group, community or a wider group.

⁷⁶ This has been elaborately written in book *Clouds* written by Aristophanes.

⁷⁷ Ibid 1

⁷⁸ This is the Epicurean definition of philosophy, accepted by all three schools of Hellenistic philosophy.

to find out how to proceed in different circumstances⁷⁹. Its arguments are to the soul as the doctor's remedies are to the body⁸⁰. Therefore one can say that the motivation for philosophizing is the urgency of human suffering, as a result of which the task of philosophy is to promote human flourishing. The Hellenistic therapeutic arguments deal with all above stated and Nussbaum terms this as 'ethical philosophizing'.

Nussbaum has carried forward this goal oriented nature of philosophy to the arena of 'medical model of philosophizing in ethics'. Beginning with a definition of ethics, ethical norms, as Nussbaum calls it, are what they are quite independently of human beings, human ways of life and human desires⁸¹. True human good is different from human interests, and this true good, more often than not, to a human being seems a far distant dream, almost impossible to attain. Reason behind this impossibility, to attain our own good, can be our inability to grasp it when it comes to us, or otherwise; views within this general structure have entered the debate on contemporary ethical route from two directions: one, scientific, the other, religious. The religious path persuades us to do what god has ordained us to, or wants us to do. The former (scientific), follows the physical sciences path, wherein scientists discover the truth or nature by identifying its real permanent structure. "Ethical inquiry consists in discovering permanent truths about values and norms, truths that are what they are independently of what we are, or want, or do⁸²." Thus by juxtaposing the latter perspective, scientific route, with the definition of ethics, we get 'medical model of ethical philosophizing'⁸³.

To illustrate this point, the author (Nussbaum) has done a case study of Indian women, who have inadequate and incomplete perception of their health status. Aristotle was not the first philosopher to talk about this medical ethics analogy, but he was definitely the

⁷⁹ Philosophy is thus for all three schools the art of life, attached with a motive- to promote good living for all; without this as its task, philosophy's existence is vain and empty.

⁸⁰ Ibid

⁸¹ Ibid 17.

⁸² Ibid 18.

⁸³ The scientific view of ethics, which is quite similar to Platonic way, was known to Hellenistic philosophy through their contact with the Platonic school. It is this model that the Hellenists want to subvert, with the support of medical terminology. But the essential difference between the two is that, the Platonists, want to invalidate all our claims and beliefs, the Hellenists, on the other, want to delve deep into a human psyche and discover the roots of every right and wrong claim.

first to explicitly state why the study of ethics should be practical, and not simply theoretical⁸⁴. Throughout the late fifth and early fourth centuries, Greek thinkers were finding it increasingly easy to link ethics with medical argument. Therefore it was a particularly important task for a philosopher, in order also to distinguish himself from a mere rhetorician, to emphasize on logos that are practical, rational and ruled by reason. This challenge was being taken up by three great moral philosophers of the period Socrates, Plato, Aristotle. However, it was Aristotle⁸⁵, who developed a detailed and explicit account of the potentiality and limitations of a medical conception of ethical argument, setting out what work the analogy could and could not do⁸⁶.

Nussbaum has explicated this through the following argument: nonetheless the appeal to nature usually does suggest the intuitive idea of an absence of deforming or impeding obstacles; it is thus very closely related to the normative notion of health. Just as health, when realized, is the system realizing itself in a flourishing way without disease or impediment, just so the full flourishing of our moral and social nature can be imagined as full activity expressive of our most important capabilities, without impediments that would act as barriers to our self-realization⁸⁷.

Proceeding further with the inquiry, concerned with the shape and content of human form of life, which is Aristotelian in every way, Nussbaum develops thick theory of the good in order, as a base for the list of capabilities. The name has been deliberately set in contrast with Rawls's thin theory of the good because the latter 'insists on confining the list of primary goods that will be used by the members of the original position to a group of allegedly all purpose means that have a role to play in any conception of the human

⁸⁴ Ibid 48

⁸⁵ Ibid 53.

⁸⁶ Socrates develops a conception of health of the soul, whereas Plato develops on the conception of health as well as the role of critical philosophical argument in securing it. These discussions had considerable influence on Hellenistic philosophers.

⁸⁷ Ibid 30

good whatever⁸⁸. The approach is Aristotelian in one more way- the central role assigned to practical reason that makes the whole-list more human⁸⁹.

We finally reach the first part of the argument as in Part II which described the capabilities approach at two levels. Level 1 comprising of the following:

Morality

The Human body

Capacity for Pleasure and Pain

Cognitive Capability

Early infant Development

Practical reason

Affiliation with other human beings

Relatedness to other species and to nature

Humor and Play

Separateness

Level II comprises of the following enlisted features

Being able to live to the end of a complete human life, as far as is possible; not dying prematurely, or before one's life is so reduced as to be not worth living

Being able to have good health; to be adequately nourished; to have adequate shelter; having opportunities for sexual satisfaction; being able to move from place to place.

Being able to avoid unnecessary and nonbeneficial pain and to have pleasurable experiences.

Being able to use the five senses; being able to imagine, to think and to reason.

⁸⁸ Nussbaum, Martha (1992), Human Functioning and Social Justice: In Defense of Aristotelian Essentialism, *Political Theory*, Vol(20)2, p 215.

⁸⁹ Ibid 222

Being able to have attachments to things and persons outside ourselves; to love those who love and care for us, to grieve at their absence, in general to love, grief, to feel longing and gratitude.

Being able to form a conception of the good and to engage in critical reflection about the planning of one's life.

Being able to live for and with others, to recognize and show concern for other human beings, to engage in various forms of familial and social interaction.

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

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

Being able to live one's own life and nobody else's; being able to live one's own life in one's very own surrounding and context.

Chapter 2: The Social Preference of Desire and Belief

Abstract: Human activity includes within itself human action as well as passion. Action is what describes the shared characteristic of anything human. Action, looked at from various perspectives in the previous chapter for example choice, practical wisdom, has one more perspective defining the concept- telos. It is an account which precedes the notion of practical deliberation. When talking about the shared elements of activities governing life, the concept of action, with a claim on both telos and practical deliberation, has a crucial role to play. Moving further, the next in line is the concept of passion which with a favorable place for moral virtues, notifies us, unlike the shared features, on the distinctiveness of the human beings. Defined, in simple words, as part of feeling, the move to explicate the distinctiveness (between human and animals) involves more or less a psychological distinction. It is interesting to see that the distinction so developed at first, which is also not psychological, no longer remains, with the entry of psychological description, a distinction. It is however while analyzing the psychological distinction that the argument goes back to square one; that there is a distinction between human and animals.

This account proceeds in three ways. The primary concept used to explain psychological distinctions is desire. A description on the same begins with an elaboration on the processes of feeling/passion. This is the first. The second is when the teleological arguments try to distinguish, obviously in Aristotelian fashion, between human and animals. The third and final is the point where Nussbaum's reading of the *De Motu* suggests the absence of this distinction. However at the end of these processes a distinction enters between the human and animals because the argument on desire, which had no prefix in the beginning, gets transformed into rational desire.

Part I is a narration of an altogether different definition of action. Part II looks at the psychological distinction between human and animals. Part III taking a cue from the previous distinctions, is an analysis of the attempt by Nussbaum to blur these distinctions in favor of non human species.

Part I

The Role of Action

“We begin an ethical treatise by looking at the characteristic functioning of human- both its shared and distinctive elements- because we want a life which includes whatever it is that makes us us¹.” A direct extension of this (I assume it to be so): The good life is ultimately a life that includes activities that are not only in accordance with virtues but are realizations of these virtues². Human activity understood in the broadest sense includes human action as well as human passions. Part I is within the context of human action, while part II deals with human passion.

The shared characteristics/features have already been displayed in the previous chapter; the remaining description of which is discussed in this chapter, mainly through telos. When talking about distinctness, the move is in two directions- one, teleological which tries to limit itself to a study of just humans; second, form-matter classification that, unlike the previous account, tries to encapsulate within itself non-human species. The form matter classification is discussed in part II because it deals with first, the distinctness of humans from other species, then eliminating the same, goes back to treating humans the way they were in the teleological account.

“An action of his then is not something some of whose features or circumstances he may be ignorant of. Rather it must be defined by features he is aware of, since it is only as so defined that he can be said to have done it knowingly and hence to have done it at all³.” The new way to look at the link between action and choice is through Telos. Eudaimonia

¹ Nussbaum, Martha, *Fragility of Goodness*, Cambridge University Press (2001).

² Kosman, L A, "Being Properly affected: Virtues and Feelings in Aristotle's Ethics" in Amelie Oksenberg Rorty (ed) *Essays on Aristotle's Ethics*, University of California Press (1981), p 45.

³ Ackrill, J L, *Essays on Plato and Aristotle*, Oxford University Press (1997), p 215

Aristotle at first, says Ackrill, distinguishes between doing a thing that is in fact wrong and doing wrong. While, the latter comes under the category of intentional doing, the former falls under the category of unintentional doing. Therefore there is a contrast between doing something properly speaking and doing something per accidents. With the accidental acts falling within the range of acts done unknowingly; the acts also fail to find their place in the category of action.

is the most desirable sort of life, the life that contains all intrinsically worthwhile activities⁴. Eudaimonia for Aristotle, says Ackrill, is the most desirable of all activities and therefore includes everything desirable in it. It is the final and most self sufficient of all activities. The end of all action is eudaimonia and the action's telos determines a thing's end. How? The answer being that it is important to distinguish between ends and means to an end. The final end is what leads to ultimate good and this is what is the aim of an action (unlike the means to an end situation wherein the end is either not final or there is more than a single end).

Thus when studying action, it is important to distinguish between what is done and why it is done? This is so as what is done may contain within itself several variables, whereas why it is done is more final. The logic of deliberate selection is inherent in 'why it is done' category of an act; this can be explained through an example of a person who gives a just verdict not because she is just or has done the act justly but because she has performed the act knowingly or has chosen that particular course of action.

There are three ways through which we can look at an act;

- One, doing something that is in fact wrong and doing wrong.
- Two, doing something properly speaking, and doing something per accidents.
- Third, doing something for itself and doing something for an ulterior motive.

This thus implies that whatever a person does unknowingly can not be counted as an action.

⁴ Ibid 186

Eudaimonia is genuinely self sufficient, absolutely final and most desirable of all activities. It is, says Ackrill, not to be counted as one good thing amongst many but the most final of all the goods.

Part II

Remember in the beginning of the chapter it was stated that human activity is an amalgamation of human action and passion. Now comes human passion. Emanating from all the above is the concept of moral virtues, which acts as disposition towards acting and feeling⁵. Aristotle equates desire, fear, pleasure etc with pathos, as a result of which feelings/emotions become modes of subject to be acted upon. And Kosman characterizes these virtues as dispositions meant for feeling as well as acting.

In the very beginning of the previous chapter, we defined the Aristotelian task of philosophy and the place of individual in it. Then we mentioned Aristotle's complaints against his fellow philosophers who isolate the human being too much in their study, leaving behind an account of other living beings. Extending this argument further, ignorance of the movements of living beings for Aristotle, according to Nussbaum, leads to sidelining also of 'deeply shared appearances'. In line with this argument it thus becomes important, says Nussbaum, to search for similarities between an understanding of human action and beliefs about the movements of living beings in general

There are two models that study this, one the materialist (also called as the school of scientific reductionism) school that simply looked at animal movement through the lens of physiology, ignoring desires, perceptions and beliefs; the other school, Platonic, critical of the materialist school, that gave some preference to psychological categories but only in connection with rational acts of human beings. Aristotle, on the other, combined the psychological language of perception, thought and desire with the physiological language of tendons, bones and sinews. This account studies movement in

⁵ Aristotle throughout Book II, says Kosman, has tried to clarify the fact that activities with virtues are dispositions are of two types, action and feeling. These virtuous activities lead to action which describes also a code of conduct that moves smoothly towards what Aristotle calls 'praxis'. At first Aristotle does not clearly develop on how virtues can possibly be dispositions towards acting/feeling, it is in the later parts of his works that he clearly elucidates on the importance of 'how one feels' while performing an act and not simply 'how one acts in the light of one's feelings'.

Aristotle's theory on ethics is about how to act and feel well. Moral virtues as states of character enable a person to display the right kinds of emotions as well as actions. Kosman calls this the art of proper living.

animals by ascribing to them desires, beliefs and perceptions which are intentional as well as logical (in the sense that they are goal directed as they make an action possible)⁶.

We concern ourselves with just the psychological part of the argument. The De Motu deals exclusively with this. The starting point is the distinction between humans and animals, as in the teleological account, followed by the blurring of this distinction.

Teleology- A Distinction between Human and Animals

Ariew offers an example of dental structure. Organisms are in possession of teeth- now a materialist would claim that the dental structure in carnivorous creatures helps them prosper while those not in possessions of this die. Aristotle, on the other, looks at it in two different ways: one, that the particular dental arrangements emerges from the fact that it is a 'regular occurrence in living nature'; second, this particular existence is for the sake of an organism's flourishing. Thus 'goal is inherent in the nature of growth'⁷.

Therefore Aristotelian Teleology based on flourishing of natural organisms pertains basically to an end motivated by its goal directedness. The argument coheres well with the argument on human functioning and action (discussed in previous chapter). Says Schwarth, "Aristotle begins Nicomachean Ethics with a teleological explanation of the Universe. He describes every kind of thing as having its own function, and this function is what is unique to things of that kind, or what things of that kind do best. The virtue of a given thing is what allows that thing to do its function well."

⁶ The accounts as well as the natural science tradition that existed before Aristotle, says Nussbaum, gave considerable space to animal movement. This is still incomplete an account for Aristotle, as preference is given to ordinary movements, irrespective of whether they are in connection to their fellow creatures or the environment. Moreover intentional features present in this school of thought are treated as similar to non intentional things. Thus the former model is too common for Aristotle, and the latter, too incomplete to do justice to beliefs and perceptions. The entire fifth century science, says Nussbaum, was influenced by this model of treating even the important ones as ordinary.

It is important to note that things are seen from animal's point of view when studying their movements or perceptions or beliefs.

⁷ Ariew, Andre, Platonic and Aristotelian Roots of Teleological Arguments in Cosmology and Biology, p 9, [Online: Web] Accessed on 10 May 2011 URL:<http://web.missouri.edu/~ariewa/Teleology.pdf>

This teleological reasoning as applied, by Aristotle, to human beings in order to let them discover their functions and virtues, also reiterates the stand discussed in previous chapter that apart from action, linked to virtues, reasoning (practical deliberation) plays also an important part in human functioning. In the process, of ascribing virtuous actions and goal central place in the aspect of human flourishing, only humans are deemed fit for the role.

A Firm Place for Nonhuman Species in De Motu's Teleological Account

Aristotle's teleology has often been badly misunderstood. In recent work in the philosophy of biology, he has been held up as the source of the false and inflated claims that have given teleology a bad name among scientists: claims that mysterious or supernatural agencies guide things towards goals; that all natural processes, even the changes of non-living substances, have a teleological explanation; that there is a universal teleology of nature, in which the activities of some species sub serve the ends of others⁸. This last point reflects the human-centeredness, which subordinates non-humans, as in the above explained teleological description; and we deal with this aspect only. But a reading of De Motu suggests just the opposite. Let's go by this - In the case of living beings, the account will be concerned not with form in the sense of shape, but with form in the sense of functional organization; and this formal account, unlike the formal accounts of mathematical entities, necessarily involves matter⁹.

The activity of life, life which is necessarily enmattered, is much more than the physical or chemical composition. It is also about the manner in which these very lives are

⁸ Nussbaum, Martha, *Aristotle's De Motu Animalium*, Princeton University Press (1985), p 60

The word teleology, according to Nussbaum is a highly misunderstood term more so when looked at from Aristotelian excesses. However this term itself presents to its reader a very interesting history in terms of its application. Aristotle first applies the term to criticize the low level material accounts (account that gives place to only matter), thus giving place to form and matter, prominently form in this regard. He then moves on to apply this distinction, termed as enmatteredness to highlight the development, growth, movement (intentional and quasi intentional) of living beings in general.

⁹ Ibid 74

Form, in Aristotelian sense, is the goal or end in terms of which the teleological explanation is to be given. The account also presents a critique of causal efficient explanation which is at present out of scope of our discussion.

organized to function (remember 'essentialism discussed in the previous chapter within the context of human functioning) which brings both the enmatteredness (discussed below) and essence together. The togetherness of two brings us closer to two distinct claims- one, the transformation from the level of ultimate particles to the level of matter's functional states¹⁰; second, because of distinction introduced by the level of matter's functional states (a result of form and matter explanation), the treatment of power of perceptibility¹¹, in the form of pneuma and appearance (phantasia) also becomes a part of elaboration. Note the fact that in both the place the treatment meted out to living beings in general is evident, though it is at a later stage discarded.

Form occupies the pride of place in the discussion of the enmatteredness of species being, it is however not over and above matter. The following quote explains this better: a) form and not matter remains the same as long as this is the same X; hence it is the form, and not matter, that enables us to identify and reidentify complex substances. The lion's matter is constantly changing as he assimilates food and excretes waste; it is his form that must persist as long as this particular lion is in existence; b) it is form, and not matter, with reference to which we can arrive at the most satisfactory explanations of the activities and motions of both living beings and artifacts¹².

Therefore form and matter survive together; the 'form must be realized in some sort of suitable matter¹³'. See this: When I ask for a formal account of lion's behavior, I am not, then, asking just for a reference to tawny color or great weight. I am asking for an account of what it is to be a lion: how lions are organized to function, what vital capacities they have, and how these interact¹⁴. When talking about capacities, the fundamental characteristic that lets once again the non human species enter the discourse,

¹⁰ Ibid 73

¹¹ Ibid 72

¹² Ibid 68

¹³ Ibid 70

The form and matter distinction is based on functional organization and not surface configuration (see p 71) Aristotle has offered three arguments in defense of this view: one it is simple; two, it is general; and three, that it takes into account the relevant data. With these advantages in place, the form and not the shape becomes important for studying this phenomenon.

¹⁴ Ibid 71

reserved previously for humans, is the self maintaining capacity¹⁵. “An animal or plant is an organic whole, a complicated system of interrelated capacities, most of which tend, in one way or another, to promote and maintain the mature functioning of an organic system of that sort, and/or to perpetuate the system beyond the individual life by reproduction. This capacity—to maintain functional states through self-nutrition and to propagate them through reproduction—is the mark that sets off the living from the lifeless¹⁶,” as narrated by Nussbaum. A case in point that simplifies this is the differentiation between an icicle and a plant. Just like a plant, an icicle also lives on the surrounding matter, yet the capacity to vary in terms of behavior or selectivity is missing; unlike a plant that turns and grows as per the varying sources of light and water. This phenomenon has been termed as ‘plasticity’¹⁷ associated as it is with self nutrition, perception, motion etc.

With the above in place, we move on to the level of perceptive capacity developed in the form of pneuma and phantasia.

What mediates the perceptive capacity and pneuma and phantasia is desire. Desire, to reach out for an object, is constituted in the ‘intentionality’¹⁸ of a living being.

Intentionality which directly follows self maintaining capacity moves a being, including animal, towards a particular object. “The tending to reach an object which is, for him, an object of desire. All desire is for-the-sake-of something the first mover of the animal is

¹⁵ Ibid 76

Some similar capacities include self nourishing, reproduction, growth and such other features that distinguish living from the non living.

¹⁶ Ibid 76

¹⁷ Ibid 77

With technical terms like self maintaining systems, interrelated capacities, the new term that extends this further is ‘plasticity of behavior’. The organic living beings apart from being self maintaining systems, with interrelated capacities also possess plasticity of behavior. This plasticity is unlike the plasticity of the above narrated example. A change in icicle is because of change in matter alone. In living beings, on the other, there are variations in behavior because of changing circumstances.

¹⁸ Ibid 85

Aristotle at first provides a functional account of a living creature, enumerated best in the following example. A desert mice develops a digestive system which enables it to survive without water for days. So an analysis of the mice’s digestive/reproductive system provides to us not only the functional account of the water system but also the history of this system. In a similar way the feature called intentionality is predicated on this functional account, specifically on the self maintaining characteristic of this functional account.

the object of desire; and the faculty of desire, together with the cognitive faculties that present the object to the creature, is central in the explanation of animal motion¹⁹.”

“The way the food-getting mechanism functions in a lion is via that lion's beliefs and desires. A plant takes in food that comes into contact with it; it does not have to perceive it, form beliefs about it, or go to get it. Some might argue that animals are, in much the same way, creatures of blind response, automata whose motions are to be explained by simply citing the stimuli to which they are exposed. I argue that even the lowest animals, the "incomplete" creatures who have only "indefinite" motions, must, if they do move from place to place, be described as intentional systems: their phantasia of the object, and not simply an objective characterization of the object, is what enters into the best explanation of their motions²⁰.” This encompasses the whole picture relating desire to bodily motion and to phantasia. Thus desire leads to movement or bodily motion, influenced by phantasia, defined as sense perception²¹. "The animal moves and progresses in virtue of desire or choice, when some alteration has taken place in accordance with sense-perception or phantasia.”²²

To start with an example (which Nussbaum offers in *De Motu*) a dog goes across a room to fetch a piece of meat, this movement to get the piece is not some mechanical process functioning inside the body, driving the dog to get the piece, but a response to the way it sees the object. The way of seeing an object, which here is appetite as well as intention, is what Aristotle calls the appearances, but when these appearances as part of our appetite join hand with reason or ‘cognitive responsiveness’ we achieve something which is beyond the appearances.

¹⁹ Ibid 86

The self maintaining capacity, also as part of the teleological account, is defined in terms of a goal or an end as well as the desire to reach out for an object.

²⁰ Ibid 86-87

²¹ Ibid 145

²² Ibid 151

Rational Desire

At this point of reading the *De Motu*, all of a sudden a distinction creeps in between human and an animal, a distinction which till now was blurred because of Aristotle ascribing the distinction of 'form' to every thing that performs a function. Irwin makes a very distinct remark in his essay, a remark which explains the motivations of an ensouled being; the motivations which can either be understood by reference to the good (this is also the teleological way of looking at things) or by looking at desires, perceptions motivated behavior. This is what distinguishes animal from a rational soul (in this case a human).

And this is the also starting point of Aristotle's ethical theory. All this made further evident from the following statement: Human, rational souls differ from animal souls in their desire for the good. A desire for something as a good is a rational desire, formed by rational reflection on the benefits of different options²³. Once we accept this, it becomes clearer still that rational desire in this form is an essential element of human soul, and with the introduction of this we come closest to the concept of 'final good'.

²³ Irwin, T H, "The Metaphysical and Psychological basis of Aristotle's Ethics" in Amelie Oksenberg Rorty (ed) *Essays on Aristotle's Ethics*, University of California Press (1980), p 45.

Part III

Nussbaum on Non Human Species

Capabilities approach, in the previous chapter, was being discussed from the perspective of an individual within the context of Aristotelian ethics. The argument was extended to further incorporate, as part of capabilities approach, people with disabilities and impairments. It was thus about capabilities approach and human beings. This chapter also deals with a group excluded or marginalized in several ways. The new group discussed here belongs to the category of non human species. The social contract tradition to which Rawls's adheres to, claims Nussbaum, has failed to take into consideration (apart from the first group) the issues of justice for nonhuman animals²⁴.

Further says Nussbaum, "theories in this tradition typically hold either that we have no moral duties to animals (Kant) or that, if we do, they are duties of charity or compassion rather than justice (Rawls). Our choices affect the lives of nonhuman species everyday, and often cause them enormous suffering. Animals are not simply part of the furniture of the world; they are active beings trying to live their lives and we often stand in their way. That, looks like a problem of justice and not simply an occasion for charity²⁵." Focusing on the latter (Rawls) Rawls's dependence in the Kantian conception of the person and the social contract tradition has made him neglect the issue of justice towards nonhuman animals. At a later stage though Rawls's is prepared to include in the theory of justice

²⁴ Nussbaum, Martha, *Frontiers of Justice-, Disability, Nationality, Species Membership*, Oxford University Press (2006), p 21.

Social contract tradition is faulty because it fails to include in it people falling in the following three categories- impairment and disability; nationality; species membership. The first problem we discussed in the previous chapter, the third is being studied in this chapter, while the second is out of context to be studied here. These three problems, explains different treatment, and do succeed in putting pressure on social contract doctrine.

It is important, says Nussbaum, to move beyond the realm of the human and extend the theories of justice to address the issues related to non human animals. The social contract theories prove ineffective at this point. It is important to address the question like this: 'who frames the principles of justice?' and 'for whom are the principles framed?' Nussbaum has also relied on this term global justice which covers only humans geographically across the earth's surface, thereby excluding animals.

²⁵ Ibid 22

cases relating to people with disabilities and impairments; the situation is not so for animals²⁶.

Moving ahead Nussbaum in later pages clarifies that the issues of justice for animals is not against the Rawlsian alternative²⁷. The duty of compassion helps in furthering this argument. Beginning with an example Nussbaum claims that we may have compassion for a person suffering with disease than a criminal, in a similar way we may have compassion for animals' suffering which assists in clarifying that they are issues relating to justice. Another way of understanding this is the distinction between an animal that dies of a disease which is nobody's fault and an animal(s) suffering because of ill treatment meted out to it by humans. Thus the duty of compassion aims also at refraining self from causing any sort of suffering to the animals²⁸. This brings us now towards the argument that animals are beings with an agency, and the capabilities approach does seek to fulfill by granting them a flourishing existence²⁹. It is important to note that the capabilities approach does not address the problem of justice for nonhuman animals. However the beginning point of the same is the 'notion of human dignity and a life worthy of it'³⁰. And the approach because it builds on the argument that neither the functions of life nor the dignity of the living being is impeded in any form or manner, that the approach assumes greater importance for the life of nonhuman living beings in general³¹.

²⁶ Ibid 235

Animals are excluded from the realm of justice; this is despite Rawls affirming the fact that we have moral duties towards animals. Justice however is confined to human beings only. Another interesting argument made by Nussbaum in this regard is the fact about social contract; contract which is made amongst parties that have to deal with one another, thus excluding animals; secondly, animals neither possess power nor resources unlike humans who do, thus once again excluding animals. The situation would have been different had there been some other way of bringing animals within the purview of justice.

²⁷ Ibid

²⁸ At this point Nussbaum ascertains that even Rawls would make this point though nowhere he has developed on the duties of compassion. This point however has not been extended further by her.

²⁹ Ibid 337

³⁰ Ibid 346

³¹ Ibid. 349

The capabilities approach is an extension that brings the above within its ambit, unlike the contractarian or the utilitarian approaches. We haven't discussed in great detail the utilitarian standpoint, however, unlike the pleasure and pain standpoint of utilitarian approaches (we depend simply on utilitarianism's most treasured aspect, pleasure and pain) the capabilities approach does take into account various forms of life and functioning. Similarly unlike the contractarian approaches, the capabilities approach does wish for the flourishing of the nonhuman living beings.

One part of teleology is self maintaining activity; other is the desire as this kind of activity is also the activity to reach out for an object. Intentionality is what persuades this reaching out for an object, thus making Nussbaum ascribe even to lowest animals beliefs and desires³². Another variable attached to this is the goal directedness of an activity. An act of window smashing is an illegitimate act lacking desire as well as a goal. Desire imparts motion to a body, for the teleological account prepares the bodily path mediated by appearance and perception. In other words an animal moves whenever it sees or desires an object. Further this body is so constructed that whenever it moves, it also witnesses some internal changes going on within the body. The former is the psychological side of the teleological account, and latter, the physiological account³³.

“Logos state is the end state of all adoptive behavior.” Nussbaum has tried juxtaposing this teleological account and the flourishing part with the functional account of the being. The following example best explains this: a plant which changes with the environment to grow and flourish. Thus logos of a being are related to the function of a human being evident as this is from the kind of activities that are being performed. First is the constitutive activity which not only leads to the self maintenance of an organism but also defines the constitutive functional role of it. For example perceptive capacities of an animal which lends importance to an animal’s self maintaining activity as well as grants functional organization to it.

Aristotelian essentialism encourages two moral sentiments- compassion and respect. Compassion is a painful emotion felt towards the pain or suffering of others, with three cognitive requirements: one, the belief that the suffering is not trivial but serious; second, the belief that the person who is suffering did not cause the suffering by deliberate default; third, that one’s own possibilities are similar to those of the person suffering. An

³² Affiliating intentionality to an animal, for Nussbaum, is very central to a definition of human beliefs and desires. In most cases it is the account of human beliefs and desires that takes precedence, ignoring thus the perceptive capacity of an animal. Nussbaum, on the other, explicitly denounces the stereotypical notion because for her anything that moves has beliefs and desires.

³³ The basic purpose in here is to know the exact meaning of existing connection between movement or motion and desire. The reason and logic is till not clear, says Nussbaum.

absence of compassion to recognize human limits and vulnerabilities will lead to only an 'arrogant hardness'³⁴. "Without the notion of common human functioning we will have to do without compassion and full bloodied notion of respect³⁵." We can not understand the meaning of compassion unless and until we understand the meaning of what it is for a human being to flourish. Compassion requires a clear picture of common humanity³⁶.

Nussbaum begins her "Beyond Compassion and Humanity- Justice for Non-human Animals" chapter with the following case: In conclusion, we hold that circus animals...are housed in cramped cages, subjected to fear, hunger, pain, not to mention the undignified way of life they have to live, with no respite and the impugned notification has been issued in conformity with the...values of human life, philosophy of the Constitution... Though not homosapiens, they are also beings entitled to dignified existence and humane treatment sans cruelty and torture... Therefore, it is not only our fundamental duty to show compassion to our animal friends, but also to recognise and protect their rights...If humans are entitled to fundamental rights, why not animals?

—NAIR V. UNION OF INDIA, Kerala High Court, June 2000

Before anything else Nussbaum has tried to study two theoretical approaches that best describe the condition of animals as beings with capabilities equivalent to human functioning, which also makes them creatures with feelings of pleasure and pain. One is Kantian, another is Utilitarianism. Kantian view, for Nussbaum, is very unpromising because he treats the quality of compassion towards animals as performing duty, in an indirect way towards humans. Kant fails to not only see that creatures who fail to respond in just the way humans do, also possess intrinsic worth, or dignity, but also that we have

³⁴ Nussbaum, Martha (1993), Social Justice and Universalism: In Defense of Aristotelian Account of Human Functioning, *Modern Philology*, Vol(90): p 70.

³⁵ Nussbaum, Martha (1992), Human Functioning and Social Justice- In Defense of Aristotelian Essentialism, *Journal Political theory* Vol(20)2: p 239.

³⁶ There are two schools of thought that adhere to the moral sentiments notion of functioning- one, Aristotelian, which is essentialist in nature; and second, anti-essentialist subjectivists. The latter school of thought relies simply on the importance of sentiments that are narrow, self regarding in nature, and curious to the situation of others. Even the relativists tend to incorporate it this way. The subjectivist school of thought has moderated itself to the local tradition, but the relativists depend still on the narrow conception, not fully ready to delve into the lives of those in question.

moral duty towards nonhuman animals. John Rawls espouses the duty of 'compassion and humanity' towards animals, that we have moral duty towards animals, but these can not be included within the contract doctrines as an issue of justice. So for both Kant and Rawls³⁷, animals lack the quality that moral persons possess, thus not capable of gaining a place in the human circle. The unique contribution that Utilitarianism makes in this direction is that it treats all sentient being as equal receivers of 'justice' irrespective of whether or not they can participate in the framing of rules or the various principles. Utilitarians have tried freeing ethical thought from the shackles of species centered conception, to give prominent place to animal entitlements. Bentham and Mill, and Peter Singer in current times, have taken lead in this regard. This account is still not satisfactory because for them animals are simply instruments of pleasure and pain.

Capabilities Approach, Ethical Concern & the Species

Both the Kantian and Rawlsian approaches have failed to treat animal as an agent, the capabilities approach, on the other, successfully treats animal as an agent with capacity to lead a flourishing life (and this also is one of the greatest strengths of the approach). "The idea that a human being should have a chance to flourish in its own way, provided it does no harm to others, is thus very deep in the account the capabilities approach gives of the justification of basic political entitlements³⁸." The capabilities approach gives pride of place to dignity which itself leads to further realization of functions that a being possesses, apart from being the possessors of 'needs and abilities'. Non-realization of this potential leads to the death of flourishing, flourishing to which a being is entitled to. The capabilities approach ensures that neither the functioning nor dignity of the being is violated in the process. The capabilities approach successfully goes beyond the

³⁷ Nussbaum, Martha and Cass. Sunstein (ed), *Animal Rights: Current Debates and New Directions*, Oxford University Press. (2004), p. 300.

In the beginning of the chapter Nussbaum elucidates on the fact that neither Utilitarian nor the Contractarian approach is efficient enough to deal with these issues. Rawls is also very much influenced by Kantian conception of the human being that places great emphasis on rationality, and the capacity to make choices. He further adds the two moral powers to his conception of the person. Therefore it is her capabilities approach only that has got the capacity to incorporate even the nonhuman animals, as beings with equal moral worth.

³⁸ Ibid 305

contractarian approach, by ascribing to all living beings equal worth, and the utilitarian approach, by giving pride of place to all forms of life and ways they lead it without attributing all the values to only pleasure and pain.

The capabilities approach thus has 'direct obligation to animals' moving well beyond the conceptions of compassion by including within it (capabilities approach) the principles of justice. The approach makes itself a part of ethical concern, concerned with the flourishing of many forms of life so existent. Central to this concern is also the human-animal relations, derived from the way the capabilities approach juxtaposes core entitlements with human dignity. As a result of this the capabilities approach also looks into the welfare of mentally disabled, thus making it possible to extend this to human animal relations.

The discussion on species starts with a concern for the well being of existing creatures and ensures that no harm is done to them. Harm here is more in the context of damage done by human species to the environment and its habitat. Therefore also the central focus of the approach is to study the harm or damage so caused to the species by the individual. Before proceeding it is also important to note that the species norm is a benchmark for judging whether a species has a decent standard of life or not. This has been explained through an example, so offered by Nussbaum, between a child with disability and a chimpanzee. The base of this is the widely held claim that there are certain capacities that humans only possess. It is in order to refute this claim that Nussbaum develops an analogy between chimpanzee and a mentally disabled child, both of whom possesses deep set of capacities similar in many forms when looked at from the perspective of human flourishing. The political culture of the country should make appropriate norms that help in granting people with such disabilities appropriate rights including citizenship rights. Other opportunities include teaching language and other such learning aides. For a chimpanzee, on the other hand, it is more important to flourish in its own ways-for example, mingling with its own community members, leading thus a life in its own natural habitat- than becoming a part of such state initiatives so provided to the differently abled child.

Chapter 3: Capabilities and their Realization- a non Aristotelian perspective

Abstract- As the title of this chapter suggests, the approach here is devoid of philosophical underpinnings that motivated the discussion in previous chapters. The previous chapters were Aristotelian in simpler yet significant ways that provided the base for Nussbaum's theory. With psychological distinctions providing the base for Nussbaum's theory on compassion and respect for non human species, and human functioning the base for the capabilities approach; this chapter without relying specifically on any of Aristotelian formulations deals with once again capabilities approach.

But it was also important to portray in what ways is the approach non-Aristotelian, therefore a section, on physiology and psychology, from the book *Essays on Aristotle's DeAnima*, has been dealt with to enumerate on this. The book is more on the physiology of life processes than psychological ones. On this is developed Nussbaum's approach to capabilities founded in one way upon consciousness raising programme. In between the physiological approach and reliance on physiological processes for furthering the realization of capabilities (in the form of consciousness raising programme), comes the move away from Aristotelianism.

Thus part I consists of a definition of the physiological processes and its role in the life processes and development (development discussed here in the form of realization of potential) with next section offering a short study on Nussbaum's departure from Aristotle's philosophy; part II tries to complete in a fuller way, through consciousness raising programmes, the connection between capabilities and their realization along with a few examples.. The last part is a composition of some of Nussbaum's general arguments.

Part I

Physiological Processes

Desire produces bodily movements as a result of which there exists functions that are common to body and soul; all this further making it possible to study the relationship between physiology and psychology. Though in none of the places, the relationship between soul and body in terms of desire and movement is clearly given, yet in one of the places Nussbaum says, 'but as for the equipment in virtue of which desire imparts movement, this is already something bodily'¹. We therefore immediately assume bodily movement to be an analogy of the body and desire, related closely to soul.

The irreversible relationship between desire and bodily movement in the previous chapter was within the context of psychological processes. This chapter, on the other, is concerned with the physiology of the psychological processes². The form and matter distinction, which made form superior to matter without replacing the importance of matter, was certainly central to this. However the Essays on De Anima can be seen as an attempt to take the distinction to another level, prominently to a level where matter in the form of material transition assumes greater importance. This heightened importance to matter or material transition is set within the context of physiological processes. A more refined way to understand this is the statement made in the same book that 'there is psychological transition without material transition'³. Now this itself has two explanatory strands (quote from De Anima) - one, all this suggests that we shall never be in a position to explain action (or indeed presumably the perceptions and desires that cause it) from the bottom up; it is not simply that we do not have the realizing descriptions in each case. If we did have them, they would not have the right sort of explanatory linkage with the *explanandum* and with the other *explanantia*. So we believe that these intentional features are irreducible, and not explicable in terms of material states and activities. We argue for

¹ Nussbaum, Martha; Essays on De Anima Calrendron Press (1985), p 40.

² Ibid

³ Ibid 38

Another simpler example given in this regard is becoming aware about something; and becoming aware is a phenomenon neither related to nor realized in matter (or material transitions per se).

finding this view in Aristotle, and we believe it to be a compelling and largely correct view. Second, in Aristotelian perception, becoming aware is a primitive phenomenon that has no associated material change⁴.

We now (based on the above) wish to make two preliminary distinctions and two dialectical concessions. First, it is one thing to hold that perception cannot be explained 'from the bottom up', quite another to hold that it is not accompanied by or realized in any material transition. We hold the first, but deny the second. For something to be a causal explanation of something, as we and Aristotle both suppose, far more is required than that it be true and truly linked with the item in question⁵.

My understanding of these two explanatory strands is that, the first denies the prominence of matter (or material embodiment) in movement; the second one believes in the importance of material embodiment within movement. We affirm the latter, leaving behind the first, and move ahead with it. Evident as this is from the following statement: the psychological activities of living beings, such as perceiving, desiring, and imagining, are realized or constituted in matter, are in fact the activities *of* some suitable matter; and that the relationship between form and matter is one of constitution or realization, not of either identity or mere correlation⁶.

The foremost activity to affirm the latter, that Nussbaum depends on to explain it further in greater detail, is 'perceiving'. As stated 'perceiving is an activity in matter',⁷ that

⁴ Nussbaum in order to make Aristotle's position on psychological processes and material transitions clearer has relied on Burnyeat's position on these processes. For Burnyeat, be it anything, nothing has any connection with matter or material transitions. In other words there is no need for the category of physiological transitions or processes for something to become aware of anything, Example the receptive capacity of an eye, which requires only, what Burnyeat calls, transparent eye jelly, intermediate temperature etc.

⁵ Ibid 39

Nussbaum herself specifies on the usage of word transition than change because of its reliance on not only matter but also the role being played by matter in, as Nussbaum calls it, actualization of potential. As one of the lines says: matter has potentialities too, clearly, and these too can be actualized. So the receptive capacity of an eye, discussed in footnote 4, is an activity in matter (though from now onwards, in later parts, the technical term for used it is 'perception').

⁶ Ibid 35

⁷ Ibid 40

It is important to take material conditions into account because is these that explain as to why did a

assists in 'actualization of a potential' which is, in other words, also a transition from 'potential to actual awareness'. It is transition because in each psychological process there is physiological realization⁸, reflected in living being's possession of an external body. When we say desire imparts movement, there is something, within this movement, which is being moved, and this being moved category foretells, I assume, the account of a living being's external body. With a living being's body playing a crucial role in movement, which is structured upon desire based processes- the technical term of which is psychological processes, the definition of physiological (its role in psychology, that makes possible the transition from 'potential to actual awareness') seems complete.

Quoting directly from De Anima⁹, the following best represents a more precise analysis of the above (in every psychological process there is physiological realization)

- Puppets and little carts move as wholes, just as the result of a change in a central part; this is the way animals also move. For they are equipped with a functional physiology: their tendons and bones being rather like the strings and wood in the puppets
- But there is a difference. The puppets and carts move simply by a push - pull mechanism that does not involve a (physiological) qualitative change. Animal parts, however, do undergo change of shape and size in the parts resulting from heatings and chillings.
- These changes are brought about by perception and imagining and thinking.

particular action occur? These provide genuine causal explanation for actions, for we are now giving the material sufficient conditions for action, belief, desire, perception etc. Materiality, so we can say, lacks the property of generality that is it can not be applied to varying objects and cases, yet we can study it in the above cases.

⁸ Ibid 41

We can say physiology of desire or physiology of perception, it is yet important to note that physiology is related to embodied living creatures (because the activity we are dealing with pertains to only living beings and not god or geometrical figures). Perceiving is the clearest and the simplest case of physiological realization.

⁹ Ibid 42

Psychological processes are realized in physiological transitions, says Nussbaum, that lead us to not movements but fully fledged local movement.

Aristotle's account of *psuche*¹⁰ as the active organizing principle of living bodies sets the agenda for his analyses of the most general principles of organic functioning and of the activities that differentiate animals from other organisms, as well as humans from other animals¹¹.

Leaving aside the distinction between human and animal movement, we focus more on the organizing capacity of *psuche* and its role in physiological movements of a living body in general. The coherent elaboration of *psuche* represented in the form of three elementary points¹², also highlights the distinctiveness of *psuche* in terms of its physiological embodiment.

- every psychological operation involves a particular material change, such as locomotion, growth, or change of size.
- realized in some or another type of matter. But while psychological functions involve material changes, there is neither token nor type correlation between such activities and specific material changes. Nor do psychological functions set constraints on the kind of matter in which they are realized: formally identical psychological functions can be realized in radically distinctive types of matter.
- realized in a physical body of a certain kind, rather than in matter as it might be described by a theoretical physicist.

¹⁰ *Psuche* has been at places described as *psuche*-mind activities, developed to differentiate between psychological and physiological activities. In this sense *psuche* implies physiological activities, thus concerning itself with the idea of a body (living being's body).

¹¹ *Ibid* 13

¹² *Ibid* 12

The three points, in other words, reflect the materiality of *psuche*. Nussbaum also explains that Aristotle has discussed the point on physiology more precisely in book *Parva Naturalia*. *Psuche* is a feature of living organisms, capable of sustaining life, a body which is also composed of organs. *Psuche* concerns itself with an organism that has various natural activities to perform. Aristotle, says Nussbaum, does not develop a major distinction between specific vital activities and the general activities of a living being. *Psuche* thus concerns itself with life activities.

“The *psuche* of ruminant mammals is expressed in the kind of body that is specific to that type of animal, one whose nutritive functions are physically organized in flesh of a certain kind. While there are general resemblances or analogies between the psychological functions of distinctive types of animals, the full explanation of those functions essentially refers to the specific physiology of a certain type of animal; for example, animals that eat flying insects must have perceptual systems with a certain kind of physical organization, effectively connected to the parts of their bodies that are engaged in locomotion¹³.” The following is the explanation for this. The third point is of importance, because it renders possible a differentiation between the same kinds of species by utilizing the specific physiological characteristics that these species may possess. An example offered is of insect eating animals who may or may not hold the same kind of psychology, yet their system possesses a certain kind of physical organisation, well connected to the other parts of the body that assist in locomotion. The parts of the body comprise the formal causes, while the physical organisation is the final causes. The formal and final causes taken together constitute the 'psuche' which sets constraints on the kind of matter (kind of physical body) in which this form of life is specifically realised. Aristotle characterises psuche as the first actuality of a natural body capable of sustaining life. It expresses the living thing's defining essence¹⁴. Psuche, a vital part of life, finds its place in natural activities. Natural activities here pertain to the activities which an organism performs in a particular way, such that it constitutes its way of life¹⁵.

Going by the above established connection between both the psychological and physiological processes, it is evident that for proper functioning of a living being, in simpler terms, there is an essential connection between mind and body. For Nussbaum there is a potential connection between these kinds of processes and the capabilities

¹³ Ibid 13

¹⁴ Ibid

¹⁵ This perception is, unlike the activities that are performed just because an organism has life. The activities described above are different in the sense that they lead one to live life in a certain way. It is about performing activities that are constitutive of one's nature, evident as this is from the statement- life is not a presupposition of activity; rather to be alive is to be actively engaged in those activities which constitute one's nature (though Aristotle did not develop a clear distinction between those activities that just makes an organism alive, for example self-nourishment, and those that express the nature of the organism).

approach. An example that enunciates all this in non technical terms can be the following: Suparna Choudhury and Sarah-Jayne Blakemore¹⁶ have given scientific explanation for the kind of action that is being produced because of change in thought processes. For them the self produced stimuli is more intense than the externally produced one being aware of one's own actions and distinguishing them from the actions of others is critical for feeling a sense of self and for communication with other agents¹⁷. An action carried in this way leads to the feeling of a sense of agency¹⁸ in the person carrying out the action. The sense of self that subsequently emerges from the self willed action leading one realise that the experience is mine. The case of action and experience being of the women, of desert village called Mahbubnagar, who after realising their function as beings with agency asserted their rights with a unanimous demand.

Before proceeding further, it becomes important to remind the reader that at this point Nussbaum's adherence to Aristotelian notion comes to an end. It is from now on non-Aristotelian. The approach, as Nussbaum in later pages clarifies, is different for Amartya Sen's approach because of its readiness to take a stand on what the central capabilities are. The stand is most appropriate based on the ability to 'function in a fully human way¹⁹'. This strand brings Nussbaum closest to Aristotle's notion of a human being. Second, the approach has as its central feature 'practical reason²⁰', an Aristotelian feature (discussed in chapter one). Moreover the concept of a human being is incomplete without a narration of the various virtues of which only a human being is capable of, and not an animal or a beast. These virtues are essential for ethical progress, a move which also alienates itself from the tradition, different types of which hamper the development of the

¹⁶ Choudhary, Suparna and Sarah Jayne-Blakemore (2006), "Intentions, Actions and the Self" in Susan Pockett (et al) *Does Consciousness Cause Behavior*, [Online: Web] Accessed on 23 April 2011, URL:<http://books.google.com/books?id=G5CaTnNksgkC&printsec=frontcover#v=onepage&q&f=false>

¹⁷ The authors have offered a very detailed understanding of the relation between sense and action, through forward output model and forward dynamic model. We need not dwell into this as it might lead to an understanding which is too generic in character. There also has been a discussion on actions about which we are aware some times and actions that are beyond our knowledge.

¹⁸ Ibid 40

¹⁹ Nussbaum, Martha, *Women and Human Development*, Cambridge University Press, (2001), p 71.

²⁰ The list developed by Nussbaum is also for the government of different countries to use for policy implementation. The list provides the opportunity for implementing policies that are not just over the surface but are practical enough, or deploy practical reason, to overcome the various shortcomings and gain success.

human being²¹.

Nussbaum's approach departs also on the very same point about virtues. Virtues are definitely in Aristotelian sense important for ethical progress and are therefore accountable for a conception of the human good or human flourishing. A critique of local tradition, presented by Aristotle, forms an important part of this very virtue-ethics position, however the connection, to Nussbaum, sounds incomplete as the virtue ethics has only one single objective, which is human good or flourishing, based on an account of human being found in this very local tradition or customs²². An approach aimed at presenting a critique of these traditions has to depart from this position, if at all it wants to do away with religious fanaticism, boulders that come in way of gender parity and improvement etc.

A clearer example closest to Suparna and Sarah's approach is an analysis by Nussbaum, on SEWA women who gained confidence after watching videos of women doing things which they are otherwise forbidden to do. As she says, "the experience of watching these videos helps them make choices for their future, also increasing their sense of possibility and worth.

The most elementary case of studying form and matter distinction was animal movement as described in *De Motu*. *De Motu* expressed the movement in animals to be the cause of some interactive processes between desire for an object and the movement to acquire that object. This is the psychological account, which for Nussbaum was not satisfactory, in

²¹ Nussbaum, Martha, *Quality of life*, Clarendon Press (1993), p 248.

The beasts and animals lack this concept because the beasts are unable to form such concepts and gods lack the experience of limits. When talking about the traditions which discard human progress, Nussbaum has outlined that the book *Politics* is an indication of the different kind of tradition ridden norms that curtail human flourishing, and the solution to this lies in analysing such norms in order to find answers to the problems of justice and its correlatives. This exercise ultimately leads to a good life.

²² Ibid 243

The situation is a little tricky as Nussbaum's convincing argument lacks a definition of human being based as it is in local system of tradition and values. Though in one of the places she mentions the qualities of this tradition bound human being- religious intolerance, racial inequality, the concept of manhood, slave holding etc.

terms of providing causal explanation for animal action²³. The desire for an object is the 'actualisation of a potential', to be explained in terms of transition from psychological to physiological. And it is the physiological account that leads to fully-fledged local movement. Moving on these lines and foregoing the debate between the psychological and the physiological processes, the matter of utmost concern is the 'actualisation of potential', a theme made possible by the transition from psychological to physiological.

The above example showed the way entrenched preferences can clash with universal norms even at the level of basic nutrition and health. The consciousness-raising program has clearly challenged entrenched preferences and satisfactions, taking a normative approach based on an idea of good human functioning. The example is of malnourished women of Mahbubnagar, a village in Andhra Pradesh²⁴, living under extreme unclean and unhealthy conditions. With even the absence of basic facilities like clean water, these women were absolutely unaware of their deplorable condition. It was only with the arrival of government consciousness raising programme²⁵ that these women started realising their pitiable state.

The actualization of potential is another way of explaining the transition from psychological to the physiological. In general terms the psychological presents to us a case of raised consciousness aware about things of which it was earlier ignorant. While the physiological, has got more to do with bodily manifestation of this raised consciousness. With this proposed definition of actualization of potential, the next section is an attempt to define the actualization of potential in terms of consciousness raising programme.

²³ As Putman suggested in book *Essays on De Anima* that this account could never be a satisfactory account because of the missing link between the desire for an object and action, or, in Aristotelian terminology, in the words of Putman, 'it could not be a proper cause of action'.

²⁴ Nussbaum Martha, *Women and Human Development- The capabilities Approach (The Seeley Lectures)*, Cambridge University Press.(2001), p 113.

²⁵ With the introduction of government's consciousness raising programme, these women have started realising the importance of their being and proper functioning. As Nussbaum elucidates later that these women now protest to government for clean drinking water, electricity, cover the food from flies, and such other things.

Part II

Consciousness raising and Functioning

Consciousness-raising as a specific political practice is directed toward challenging the dominant ideas. Consciousness-raising processes provide women the opportunities to reflect, consider the various options, and make decisions. The process of social transformation involves long-term changes in confidence and courage for individuals. This is also specifically vital for poor low caste women who have little experience with self-assertion. "Capability building creates a potential for collective protest for change in social relations, such as caste and gender²⁶."

The capability approach to a person's advantage is concerned with evaluating it in terms of his or her actual liberty to achieve various valuable functionings, as a part of living. The capability of a person reflects the alternative combinations of functionings the person can achieve, and from which s/he can choose one collection. The approach is based on a view of living as a combination of various 'doings and beings', with quality of life to be assessed in terms of the capability to achieve valuable functionings²⁷. What the author is trying to raise, we assume is that there is something called 'functioning as being', reflected in the following- 'beings and doings'- which leads to a difference in terms of the ability to function and the requirements for performing the function. Reflected as this is in one of her statements that 'human beings have widely varying needs for resources, and any adequate definition of who is 'better off' and 'worse off' must reflect that fact²⁸'.

The above model of human functioning raises, explains Subramaniam, the following

²⁶ Subramaniam, Mangala, *Capability Building as Potential to Protest Gender and Caste Injustice: Poor Women in Rural India*, [Online: Web] Accessed on 10 April 2011, URL: www.transformativestudies.org/wp-content/.../103798tia1937-023708026

²⁷ Ibid p 5

The author's assumption is based on the Amartya Sen's claim that resources are nothing more than the sources that play an important role in human functioning. And functioning represents the various parts of a human personality that enables one to perform (or assists in managing) certain things. This is what the capabilities approach is all about.

²⁸ Ibid 7

three propositions²⁹: the first proposition is the extension of Sen's conceptualization of capability building to achieve valuable functionings to include the institutional and organizational resources as well as collective ideas available for effective action; the second proposition is concerned with the 'processes' that individuals experience within group, the courage to articulate and share experiences, as well as make decisions; the third proposition suggests a link between the individual and the collective. Rather than developing on each of the three described, we dwell into the last of the three propositions, as it is this which leads more directly towards the functioning of a being that has its direct correlation with the consciousness raising programme. The third concept is mediated by the denomination of protest, which gives an individual the capability to protest. With this comes into being the collective consciousness, with a social aim.

Individually one can, says Subramaniam, question the status quo, the existing norms, whereas collectively, these individual actors can participate actively in decision-making processes that go a long way in bringing long term social change.

The following few examples from different sources throw light on efficiency of consciousness raising programmes. Consciousness-raising as an exercise involves different mechanisms that prove instrumental in reaching a particular goal. We begin with (and rely only on) few examples, unique in their ways, from Latin American world.

Thomas J La Bella has said that the history of Latin America as well as the Caribbean is full of examples which magnify the innovative tradition of the country. One of the most primary amongst this category is the consciousness raising programmes. By confronting family, education, labor and social problems and by generating their own formulations of reality and community activity, the participants are expected to achieve heightened or transformed consciousness³⁰. For the author consciousness raising is often associated with studying the various forms of oppression and formulating ways and means as

²⁹ Ibid 6-7

³⁰ Bella, J La Thomas, From Consciousness Raising to Popular Education in Latin America and the Caribbean, [Online: Web], URL: pics3441.upmf-grenoble.fr/.../from_consciousness_raising_to_popular_education

alternatives for the securing a just society³¹.

Karen Mokate³² has understood the consciousness raising as a part of participatory mechanisms being developed by the state. The better one is able to get over these forces, the better is the all round social development of the individual. The author has also prepared a table elucidating on the various kinds of barriers to women's development, thereby also offering various devices to overcome these barriers.

Level	Goal	Target	Activity
Micro: Individual	Empowerment	Women	Training: <ul style="list-style-type: none"> • Increase women's confidence and leadership capacity • Prepare women to run for election (especially in local government, TAO) • Support elected women in politics
Meso: Public institution	Advocacy	Decision-makers	Research and campaigns: <ul style="list-style-type: none"> • Constitution: Legal rights • State/Government system: Bureaucracy: civil servants Parliament: people's representatives • Private sector: Business/Industrial enterprises Workers—trade union • Policy: Political parties
Macro: Society, community	Transforming social attitude	General public The media	Raising awareness, public education: <ul style="list-style-type: none"> • Outstanding women's awards • Directory of outstanding women • Photo contest on women's economic contribution

³¹ Bella through this article has tried to invoke the meaning of consciousness raising as an activity in which the social reality of each oppressed or the subordinated class is effectively reflected. And the forum that is being used to highlight this reality is open discussions. In these discussions every person discusses on the problems s/he had to face, thus leading also to a better understanding of different kinds of issues affecting a segment.

³² Mokate, Karen (ed), *Women's Participation in Social Development- Experiences from Asia, Latin America and the Caribbean*, Free Hand Press (2004).

Part III

Rights and Capabilities

The third and the final part is somewhat different from all the previous discussions, concerned as it is with rights and its station in different places. The approach has been relied on to highlight the violations that individual rights suffer, thus also hampering the realization of human capabilities.

The first part of *Sex and Social Justice* deals with the contestation between the demand for religious liberty and demand for upholding existing laws within various religious traditions. In the Indian context Nussbaum has relied on the very famous Shah Bano case to present a clearer picture of the contradictory situation, situation wherein government actors play a pacifying role, thus siding with the representatives of the conservative upholders of religious laws. She gives an example of government actors like Rajiv Gandhi who on the one hand, claimed that something must be done to improve the situation of women, on the other, made efforts to satisfy these religious groups. There are various such international examples given by the author to highlight the lag in public policy making. It is important to bring to light these international issues, as without these we will fail to acknowledge and understand the kinds of inequalities, atrocities that religion often promote³³.

The approach to studying this discourse is incomplete without a reference to the kinds of violations individual rights suffer, evident as this is once again from the kind of

³³ Nussbaum, Martha, *Sex & Social Justice*, Oxford University Press (1999), p 85.

Another reason for this concern is the fact that these kinds of issues do not always receive the kind of attention they require to achieve success in terms of condemning such beliefs and practices. Nussbaum as a liberal is trying to condemn these systems of practices, shaped as these are without any liberal motivations (tradition). Western liberals also, according to her, have failed to take appropriate action against this because of 'political hopelessness', emanating from the lack of support they sense for these concerns (though these liberals do not hesitate in criticizing secular governments that perpetuate such atrocities yet calmness prevails when it comes to raising voice against the religious leaders and groups). At the moment we do not aim to elaborate on the sort of linkage Nussbaum has tried to establish between liberalism and religious tolerance. Our concern here is to state the positive role that public policy can play in putting an end to the religious fanaticism.

discrimination Shah Bano suffered during her fight for alimony. The problems get manifold in a country like India where there exists regional variations along with political and cultural differences. Then there is another situation where religions attain political mileage, thus becoming a very important source of political power³⁴.

The case of India and Bangladesh present the most interesting case as they are countries with liberal constitution, though the constitutional order allowed the religions to 'take part charge of the legal system'³⁵. This further leads to a divisive political order. What best clarifies this statement is the quote: decisive action on untouchability has created a solid social consensus in the next generation; indecisiveness on civil law has made the question of uniform code a political football for fractious and self interested actors. At this point it is virtually impossible for liberals and feminists to support a uniform civil code, given that the cause of the code is now championed by the BJP as part of their projected assault on the equality of Muslim citizens³⁶.

Allowing groups (religious) to operate when it comes to devising the course of law definitely runs the risk of violating the rights of those individuals who are not and can't be a part of this grouping³⁷. In Shah Bano case the groups tried hard to prevent her from receiving the monthly maintenance³⁸. It is necessary to invoke the category of sex

³⁴ This kind of fight for political gains apart from violating human rights also makes us, says Nussbaum, criticize the concept of human being because it is they who put up this fight for corrupt political aspirations. But the task at hand is to see in what ways these influences come in the way of safe and secure human rights.

³⁵ Ibid 104

This has led to the prevalence of religious codes in the Constitution which should be reformed in order to be in conformity to Fundamental Rights enshrined in the constitution. Within these religious codes there are family codes which in every possible way deny rights to women. Shah Bano's situation reflects, within this very context, her worst situation, as being a Muslim denied her the right to approach other court of law. Her situation would have been different had she been a Hindu, says Nussbaum. There is also a denial of equal liberty of conscience which pervades one to define oneself as an atheist or theist.

³⁶ Ibid 106

³⁷ Similar thing happened in Sareetha's case in Andhra Pradesh when the Supreme Court, after nullifying Judge Choudhary's order defending equal rights, upheld the Hindu Marriage Act. Or even the privilege, clarifies Nussbaum, given to religion over non religion, in the US, where there are religious reasons for exemption from military service. Jews are also refused entry in some Catholic Churches.

³⁸ There are also eminent people within these traditions who support a constitutional order binding on all the citizens of the state. Example Muslim lawyer Chowdhary Hyder Hussain who, in as early as 1949, argued for a uniform civil code, thus calling the separate code a part of British system; or Muslim jurist M C Chagla who enumerated on the binding character of a constitutional legal system on each and every

equality enshrined in the constitution in order to evade these violations. Failure to address the above also leads to a denial of equal liberty of conscience along with a violation of basic rights.

“I am not very happy myself with taking rights as the starting point. The notion of a basic human right seems to me obscure enough, and I would rather come at it from the perspective of basic human capabilities. I would prefer capabilities to do the work, and if we are going to have a language or rhetoric of rights, to have it delivered from them, rather than the other way round, commented Bernard Williams on Sen’s 1987 Tanner Lectures³⁹.”

There is great diversity when it comes to the theory on rights. For Nussbaum the best way of understanding rights theory is through combined capabilities⁴⁰. Various rights are considered as capacities to function. This also makes the practical implementation of the various rights possible, unlike a situation where the rights exist simply on paper. This definition is important in one more sense. Rights as sources of capability to function also make possible the enactment of choice and autonomy in individual’s life. Thus there is an emphasis on individual liberty made possible by the implementation of rights, that possess choice and autonomy as its core principle.

The above discussion on rights also signifies a major turn-away from Aristotelian philosophy because the latter fails to look at the conception of rights from the perspective of choice⁴¹. Aristotelian notion of functioning and capabilities is thus illiberal in this sense, claims Nussbaum. The language of rights as capabilities is therefore different

citizen of the country irrespective of the religion, other differences (Nussbaum).

³⁹ Nussbaum Martha, *Women and Human Development- The capabilities Approach (The Seeley Lectures)*, Cambridge University Press.(2001), p 97.

The quote by Bernard Williams at best, for Nussbaum, presents the uncomplicated view on the relationship between rights and capabilities, an issue which she has herself addressed in this book.

⁴⁰ One view treats rights as the basis of rationality, sentience; another deals with the relationship between rights and duties; for the third group rights are sources of either group rights or individual rights. There are many more views like this thus making the sphere of rights a complicated sphere. As a result of this many complicated theoretical situation rights are themselves assumed as complex and unclear.

⁴¹ Nussbaum Martha, *Women and Human Development- The capabilities Approach (The Seeley Lectures)* Cambridge University Press (2001), p 101.

when seen from Aristotelian perspective and when looked at as per Nussbaum's analysis, the latter's analysis makes it possible to consider rights as a set of mechanism dealing directly with individual's sphere of choice⁴² (unlike the illiberal notion which presents rights simply as a set of things to be worked upon).

"Thus the primary role for the capabilities account remains that of providing political principles that can underlie national constitution; and this means that practical implementation must remain to a large extent the job of citizens in each nation⁴³." This quote reiterates the often repeated strand about the importance of the language of rights in public discourse. The language is important to put pressure on the government that does not give rights to the citizens to which they are entitled. This situation is more horrifying for women of various countries including India, who are denied the capability to function. The universal conception of capabilities with its stress also on the system of rights is an excellent guide to solve this problem.

Reliance on this approach also gives the deprived sections control over their livelihood, thus enabling full human functioning. The case in point is of Vasanthi and Jayamma, both of whom were denied capabilities, the resultant being they even lost a conception of the self. Jayamma suffered a lot more than Vasanthi, but in the end it was Jayamma who did better. Why? Because Jayamma was never taught to be timid, docile, submissive, thus she appearing stronger, with general awareness about various issues. This contrasting example at best explains the meaning of capabilities and its importance in human lives⁴⁴.

The GNP per capita in countries never takes into account these kinds of existing rights

⁴² Rights as direct have been discussed (by Nussbaum) as dealing with fundamental rights which guarantee to every individual the rights to let's say choose by virtue of being a human being. These fundamental rights are urgent set of functions which lay claim on the equality of human beings to function with full capability.

⁴³ Ibid 105

⁴⁴ While the government did not do much for Vasanthi, Jayamma received tremendous support from the government. The reason may be that she was aware of her rights but the other wasn't. Irrespective of this the government has to bring within its sphere of work these issues, issues that simply deny an individual a conception of a self as well as importance of health, nutrition. Today even Vasanthi is an enlightened woman aware about different issues.

violations or inequalities⁴⁵. The calculation process always ignores the quality of life, which includes within itself various sources of human good like health and health services, access to education, freedom, infant mortality, gender relations etc⁴⁶. One of the better ways to interrogate on this deprivation is interviewing people, asking them how satisfied they are with their current education status, state of health etc. This argument brings both human function as a capability, which is universal, and the particular perception of the person together⁴⁷. The example will explain it better. There was in Bangladesh a literacy campaign in the eighties. The agency involved in the programme at first distributed adequate literacy materials to women, with cooperation from local government, assuming this measure to be sufficient enough to withhold the existing inadequacies. All this to no avail as the situation demanded much more than this, there was a need to go deep down the system to get a magnified picture of the particular situation. Over the years the situation changed as now they started mingling with the local women trying to assess the particularities of their situation. Various cooperatives were being set up to present an efficient picture of the situation which further made possible the realization of their capabilities. The particular perception here is the ways and methods this group devised to analyze the situation of women, which in the beginning failed but gained heightened success in the later stages.

⁴⁵ The criterion used for evaluating the standard of lives is simply the presence of more money and resources, while factors like access to various social sector services is absolutely ignored. This judging and evaluation leads to an improper analysis hampering those who will to study, including policy makers and social scientists, this phenomenon.

⁴⁶ Nussbaum, Martha (1992), Human Functioning and Social Justice: In Defense of Aristotelian Essentialism, *Political Theory*, Volume (20) 2.

⁴⁷ Ibid S69

Conclusion

When I say Aristotelianism of Martha Nussbaum the approach adheres to in considerable ways as well as departs from Aristotelian philosophy. The base of it is Aristotelian ethics, which includes also within itself a conception of action and a conception of human functioning. The former presents to us a teleological (Aristotelian) account, while the latter forms a part of essence of a human being. Now with the teleological account presenting to us the enmatteredness of living species and essence with the capabilities of a being; the cumulative effect of this all is a departure from notions previously deemed Aristotelian by us. The departure comes in form of 'capabilities approach as realization of full human potential'. This is altogether a different definition of capabilities approach with focus specifically on rights and their place in government policies.

I take the above as a three-stage process. One through capabilities approach based as it is on Aristotelian conception of the person. This conception of the person though Aristotelian, is mediated by Rawls's notion of primary goods and reflective equilibrium. These two concepts have been developed extensively in the book 'Political Liberalism' (some what more than was developed in 'Theory of Justice'), though they, to me, seem to be best highlighted in the article Kantian constructivism. The article becomes more important for the fact that the individual acquires a centre-stage in different ways. The ways lead to what Rawls terms as 'determinate moral person' followed by the establishment of perfect procedural justice' (these two a direct extension of Kantian conception of the moral individual and its duties). Nussbaum's liberalism is definitely influenced by Rawlsian liberalism, but the influence seems to wane when the approach comes face to face with reality of defining capabilities for the disabled and people with mental impairments. At this moment enters the Aristotelian (conception of) human being with defined definitions of dignity. Please note that Nussbaum also finds the category of disability to be altogether missing from Rawlsian approach.

The approach is Aristotelian in one more way. This time the focus is not on human beings but nonhuman species. The approach at one point in favor of nonhuman species, at other not so. Both ways it is the argument on teleology that invokes this. Third, as we proceed the approach gets colored with arguments non Aristotelian in every way. The

reason cited by Nussbaum forwards an analysis that wants capabilities approach, with the element of capability to functioning inherent in it, to play a role also in realization of potential.

The above elementary arguments have turned Nussbaum to be also one of the leading proponents of animal rights and such issues. A discussion on these issues is deemed incomplete without a focus on Nussbaum's works in this direction. I personally find this a very intriguing as there are not many social scientists who try to become a voice for the speechless.

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