

DISABILITY KALEIDOSCOPE OR THE ABILITY OF INVISIBILITY: METHOD, PROBLEMS AND INSIGHTS

João Pedro Guimarães
Machado

Graduando em Direito da
Faculdade Nacional de
Direito da Universidade
Federal do Rio de Janeiro.
pedro.guimaraesm@gmail.
com

Caleidoscópico de Deficiência ou a Capacidade de Invisibilidade: método, problemas e percepções

ABSTRACT

How does disability relates to Political Theory? How do theories grapple with human diversity and different capabilities? With these foci, *Disability and Political Theory* (2016) amasses essays concerning state of the art scholarship in an interdisciplinary array, edited by Barbara Arneil and Nancy G. Hirschmann. However, many questions are still left unanswered. What should be the method concerning Disability Studies? Is there a disabled identity? How to intersect with scientific data and other sciences? Are models necessary? What should be prioritized amongst scarce resources? This book review aims at engaging dialectically with each chapter, analysing merits and issues, while still sketching solutions.

Keywords: Philosophy of Law; Disability Studies; Political Theory; Contractarianism.

Resumo

Como a Teoria Política dialoga com a deficiência? Como teorias lidam com a diversidade humana e capacidades várias? Dotado desses enfoques, *Disability and Political Theory* (2016), editado por Barbara Arneil and Nancy G. Hirschmann, coleciona artigos pertinentes ao estado da arte acadêmico em campos interdisciplinares. Há questões, todavia, não aplacadas: “qual deve ser o método empregado pelos Estudos em Deficiência?”; “há uma identidade de pessoa com deficiência?”;

“como deve operar a intersecção com dados científicos e as demais ciências?”; “modelos são necessários?”; “o que deve ser priorizado em um cenário de recursos escassos?”. Essa revisão objetiva engajar dialeticamente cada capítulo, analisando seus méritos e problemas, enquanto esboça soluções

Palavras-chave: Filosofia do Direito; Estudos sobre Deficiência; Teoria Política; Contratualismo.

1. INTRODUCTION: THE ABILITY OF INVISIBLENESS

Disability and Political Theory (2016), edited by Barbara Arneil and Nancy G. Hirschmann, assembles essays by preeminent scholars on the approaches that political theory has and has had to disability. It spawns over eleven chapters, each concerning a different issue, from contractarian difficulties regarding disabled persons' consent to re-evaluating the concepts of “cure” and “accommodation”. The work's stated aim is to furnish a recollection over a poignant issue, that has been left untouched, forgotten or downright excluded on political theory: “how is disability present (or absent) from theoretical proposals? And how should it?”

On *avant-propos*, in the first chapter, the editors state: “the failure of political theorists to engage this subject is particularly obvious when we compare our discipline to the work done by colleges in the disciplines of English literature, history, and philosophy”¹. Further, the main problems from which the inquiry starts are that “citizenship” is established in opposition to “disabled dependants”², renegading them to the status of non-citizenship, of a pariah³, or of an animal⁴; and that of the “centrality of reason”⁵, which relies upon ableist assumptions, developed at chapter 3. With this intent, the first chapter discloses after a brief *compte-rendu* of the other chapters' content.

¹ ARNEIL, HIRSCHMANN, 2016, p. 2

² ARNEIL, HIRSCHMANN, 2016, p. 7.

³ ARNEIL, HIRSCHMANN, 2016, p. 204.

⁴ ARNEIL, HIRSCHMANN, 2016, p. 49.

⁵ ARNEIL, HIRSCHMANN, 2016, p. 7.

2. THE DISABILITY KALEIDOSCOPE: COMMON PROBLEMS

Before analysing the particulars of sections of the book, some comments are due to its general content.

It would be arguable that the main quest of Disability Studies, as with every area of inquiry, should be to investigate objectively and rationally means for grappling with questions about disability; and, from a scientific and impersonal account, develop tenets that one needs not to subjectively endorse in order for them to be valid. In other words, serious research on disability requires science and not protest.

The political undertone of all chapters, except in chapter 2, compromises the objectivity that science requires. Adopting the consilience dictum⁶, there has to be change in the method usually withheld at the social sciences in an approximation to the one adopted by the natural sciences. That is to say, reproducibility in artificial scenarios for the descriptive claims held⁷, or the use of factual data from hard sciences; and the anchoring in concrete data the propositional claims made. Even if many of the authors have personal reports with disability, emotions should serve as an encouragement, not as a conclusion welcoming whatever favourable subjective arguments it can grasp⁸. Partialism is self-defeating.

The question about whether it is better to face disability as a distinctive and personal individual trait or as a collective identity is presented in the book as a virtual consensus. While in the first chapter the editors state, “disabled identities are deployed to delimit and define citizenship, freedom, equality, and rationality”⁹, “Such theorizing has a broad scope, including the constitution of disability as a category of political identity”¹⁰ and over the essays¹¹, why should disability be endorsed as a particular identity if “[disability is] *an universal to us all across the lifespan* [sic] (and thus something we

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⁶ WILSON, 1998.

⁷ As would have been required of “White bodies are preferred over bodies of color; male bodies are preferred over female bodies” (ARNEIL, HIRSCHMANN, 2016, p. 111).

⁸ As is patent in chapter 6.

⁹ ARNEIL, HIRSCHMANN, 2016, p. 3.

¹⁰ ARNEIL, HIRSCHMANN, 2016, p. 5.

¹¹ ARNEIL, HIRSCHMANN, 2016, p. 41, p. 51, p. 186, passim.

all see as central to our own identity)”¹²? As an integral part of human existence, being common to all, in greater or lesser scale, it is unreasonable and misleading to attribute “the disabled identity” only to some of those who have it. It is contradictory to say that A and B have X-ness; however only A that has X-ness count as being characterized as having X-ness. Furthermore, this claim potentially troubles judgment and hinders empathy as constituting an (logically inexistent) Otherness¹³.

Withal, inserting disability in identity politics is an uneasy affair¹⁴. Some of the authors express their concern¹⁵, whilst most endorse it¹⁶. A critics view about inserting identity politics in the fray, is that, beyond the logical inconsistency, the scientifically aimed for impartiality is thus compromised. Disability is not a race, or hapless group of people, is a social phenomena product of social physical and attitudinal barriers concerning people with impairments. A comprehensive analysis, thence, has to be twofold, on cure and accommodation, since there are ones who wish to tackle the impairment and others who wish to eliminate barriers¹⁷. The data⁷ shows that the number is somewhat even on cure and accommodation, on a corporeal identity that includes the impaired body and the one that excludes the impairment. In both cases, personal choice should prevail, given that no subjective view can superpose another over the personal account over the good. Thus, an Ethics of Disability cannot be an ethics of condemnation for those who wish to change their corporeal status to one without a particular impairment. However, blank criticism over the choice is present at the book¹⁸.

Another common issue over the essays, except in chapter 10, is the absence of facts upon which claims are made¹⁹. This fault is rampant at chapter 5, that proposes itself to analyse “women’s anxiety”, whilst discussing medical practice, cites profusely what Bacon would

¹² ARNEIL, HIRSCHMANN, 2016, p. 41.

¹³ This effect is avowed at page 208, footnote.

¹⁴ ARNEIL, HIRSCHMANN, 2016, p. 261.

¹⁵ ARNEIL, HIRSCHMANN, 2016, p. 261, passim.

¹⁶ ARNEIL, HIRSCHMANN, 2016, p. 81, 96, passim.

¹⁷ HAHN, HARLAN D., BELT, 2004, p. 453-464.

¹⁸ ARNEIL, HIRSCHMANN, 2016, p. 31, 36, 99, passim.

¹⁹ As in (mostly) pages 21, 29, 30, 33, 45, 96, 111, 112, 113, 115, 120, 125, 126, 128, the whole of chapter 6, 224, 251, 258, 260.

now call “ancients”, Hobbes, Wollstonecraft, Freud, Kierkegaard, and shuns away from presenting any medical data, modern case-studies or statistics. It is astounding inasmuch as incoherent in regards to the propos, rendering the process of interpretation of facts lame as to their absence; therefore, fruitless beyond an antiquarian interest. In chapter 10, “Disability and Violence: Another Call for Democratic Inclusion and Pluralism”, by Joan Tronto, this trend is mostly averted, as the author analyses some statistical data about “Disability and Violence”; however, the fortunate search undergoes insufficient means. The chapter could explore more data and develop meta-analysis, concerning how the data was gathered, the objectivity and subjectivity of the material.

Through the book, the problem of absent data to interpret and on which to base claims is often surrogated, along the book, by recall of theoreticians’ views, which do not rest themselves on contemporary data²⁰. This leaves the reader with a question, why speculate, when there is available analysed facts by the other sciences? As a rule, descriptive claims without facts are useless. For science, common sense needs proof.

With the aforesaid exception of the chapters 10 and 11, as the book aims at being a scholarly perspective on the political theory’s relation to disability, it strikes the reader that there are so few interdisciplinary dialogs between Disability Studies, as presented, and modern medicine. Starting from a slandering of the medical model²¹, to unscientific claims such as “disabled males are sometimes seen as ‘feminine’ because disability is imagined to produce weakness”²², the authors generally rest on “folk psychology”²³, devoid of proof for such claims by data from the cognitive sciences. Thence, it stands scientifically is as if unwritten.

Studying disability without an interdisciplinary approach is destined to repeat *doxa* and fail to tackle responses to the most pressing issues such as new ways for treating an illness that entails an impairment whilst concerning the potential patient’s say, or to evaluate the ethics of caregivers in sight of contemporary practice. To that avail,

²⁰ An exemplarily case, page 115 and 125.

²¹ For example, chapter 4, page 99.

²² ARNEIL, HIRSCHMANN, 2016, p. 113.

²³ Which is expected, WILSON, 1998, p. 220.

Hobbes, Rousseau and Kant²⁴ can hardly have a say on the present scientific state of the art and issues of normative modernity; being its considering secondary to empirical research and contemporary scholarship. The book largely ignores such proposal and mostly reviews outdated literature, being of little concern for questions about the disabled persons' daily lives.

There is much discussion in the book revolves around models, first with a saying that the medical model is undesirable²⁵, then in avowing that the social model is better, but nonetheless insufficient²⁶. There are still some conciliatory proposals or new models²⁷. However, while reading, a perplexed reader might think, "Is there a need for a model? One that is always based on a 'disabled identity'?" An answer to the question is that it is not necessary, that it is a form of oblique humanism, meaning the understanding a person's rights through his or her association to a collective identity. The humanist perspective would be that a person's claim to rights is independent of all factors beyond that of his or her humanity. In this sense, a specific need would be the source itself of a claim to a right, evaluated in a particularistic stance according to a community's priority over resource allocation previously considered. The focus on cure or on accommodation would need to be decided by the community through deliberation and communicative action²⁸. Dismissing democratic deliberation is pervasive. Disability Studies, in its social stance should, contribute to public reflective equilibrium, instead of postulating imperative maxims out of Ether. Yet, it is a mere stub for further research.

The poignant and difficult question that should be prioritized is not that of rendering straight dissents over minutiae²⁹, or reviewing obscure and outdated ways on which Eighteenth Century thinkers remarked about disability (as in chapter 2), but rather, "how to decide with ever-scarce resources, among other communitarian needs, questions about disability?"

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²⁴ On Kant's thoroughly outdated stance specifically, see chapter 2.

²⁵ ARNEIL, HIRSCHMANN, 2016, p. 4, 13, 23, 88, 99, passim.

²⁶ ARNEIL, HIRSCHMANN, 2016, p. 4, 25, 88, 99, passim.

²⁷ ARNEIL, HIRSCHMANN, 2016, p. 14.

²⁸ HABERMAS, 1989.

²⁹ ARNEIL, HIRSCHMANN, 2016, chapter 3.

To this, no answer is essayed, with an exception on the last pages of the last chapter *en passant*, “and such choices [cure or accommodation] will often produce zero-sum thinking on the part of policymakers”; and further, “questions of resource allocation often make many implicit and conservative assumptions about the ways resources are already allocated”. The author claims that other expenses should be curtailed, such as military spending, to provide for cure and accommodation³⁰. Withal, to this one cannot but ask: “what is the order of priority?”. To say that other resources could be funnelled so that there should not be a priority for either cure or accommodation or over disability requirements and other expenditures is to avoid or misunderstand the seriousness of the issue.

Inasmuch as it is a nascent and interdisciplinary field, the question about animal rights alongside disability research is uneasy. Chapter 7, “Rethinking Membership and Participation in an Inclusive Democracy: Cognitive Disability, Children, Animals”, by Sue Donaldson and Will Kymlicka, grapples with the matter in an indistinct manner. This approach is troublesome, especially in the length of an essay, since neither is sufficiently furthered. The main problem rests in the basis:

In previous work, we articulate a moral argument for extending the revised conception of citizenship to DAs (Donaldson and Kymlicka 2011 : chs. 4 – 5). If citizenship is indeed about recognizing membership, voice and agency within socially meaningful relationships involving cooperation, trust and intersubjective recognition – rather than threshold capacities for linguistic agency – then DAs qualify. Indeed, the process of domestication is precisely about the incorporation of animals into such relations.³¹

The question is: why is this citizenship? Is it not the faculty of each society to define what constitutes belonging and the citizen status? No answer is set forth. Again, one can imagine that the writers hope that the readers will rely on this unjustified assumption. Besides, domestication is incorrectly described³². No subjective link is required.

³⁰ ARNEIL, HIRSCHMANN, 2016, p. 283-284.

³¹ ARNEIL, HIRSCHMANN, 2016, p. 172.

³² “[the domestication process is] a species bred in captivity and thereby modified from its wild ancestors in ways making it more useful to humans who control its reproduction and (in the case of animals) its food supply”. DIAMOND, 2002, p. 700.

Moreover, the amassing data³³ shows that animals probably do not have a concept of the self in order to build intersubjective relationships akin to humans. This is questionable; however, these are the achieved facts.

One way to characterize what we know about social cognition and mental-state attribution from an evolutionary perspective would be to say that many species may have clever brains but blank minds (Humphrey, 1982). Clever brains in the sense that they can learn, remember and solve a variety of problems, but blank minds in the sense that they lack the capacity to represent mental states in themselves or others.³⁴

On human self-awareness:

While it is probably true that no two people ever experience the same event in exactly the same way, since we are members of the same species we share similar sensory equipment and underlying neurological hardware. As a consequence there is bound to be considerable overlap between your experience of a particular object and/or event and mine and therefore, targeting aspects of my experience as a means of developing an inferential model of yours can begin. Moreover, given a knowledge of ones' own mental, emotional and motivational states and their relationship to various external events, one can model comparable states in others. Self-awareness, in other words, paves the way for an inferential knowledge of others.³⁵

Thus, the trend of anthropomorphising animals and rationalizing preferential treatment of pets has no scientific standing. Withal, Frans de Waal³⁶ and Carl Safina³⁷ are staunch critics of such views. Nonetheless, the key to the problem is to understand Nature as it is, not from our nature. One more reason not to ignore the natural sciences.

³³ "The available evidence shows that even when exposed to mirrors for several years or more, most primates (as well as a variety of other animals) persist in responding to their own reflection as though it represented the presence of another individual (Gallup and Suarez, 1991)". GALLUP, 1998.

³⁴ GALLUP, 1998, P. 241, 1998.

³⁵ GALLUP, 1998, P. 242, 1998.

³⁶ DE WAAL, 2016. Especially chapter 8.

³⁷ SAFINA, 2015.

3. BRILLIANCE IN PLURALITY

Not all is as bleak as by this first criticism would be assumed. Indeed, the work assembles a diverse myriad of essays of worthwhile thought. Excelling among the rest is the Chapter 2, on which it now we will proceed to comment.

As of constituting the groundwork upon theories from Rawls to Singer rest, the author of “The Ableist Contract: Intellectual Disability and the Limits of Justice in Kant’s Political Thought”, by Lucas G. Pinheiro analyses Kant’s conceptions of disability in light of his empirical ethics, scattered across his works. The relevance of the essay is noticed by the common remission to Kantian concepts as integral parts of many theoretical works, in spite of Kant’s own use of them. As the essay recollects, “Kant’s verdict is clear: the idiot has neither soul nor moral character”.³⁸

Kant’s definition of idiocy here describes less a cognitive condition or state than an embodied disabled identity; it is categorically distinct from intellectual disabilities that “arise with reason” and can therefore not exist in a state of natural unreason, which is precisely where Kant locates idiocy (Kant 2012 : 94). Further, Kant’s new definition of idiocy as the embodiment of unreason is descriptive of a “non-identity” insofar as it concretely illustrates the abstract ideas of a soulless body and a subject void of subjectivity, as an amoral, merely physical natural creature³⁹.

The way upon which Kant treats disability is not flattering. “Intellectually disabled subjects in Kant are consequently confined to an amoral and apolitical existence where they will never require the very understanding they lack”⁴⁰. In short, along with women, that are passive citizens⁴¹, disabled people are divided into sorts, in relation to the causes of their “mental ailment”. This results in different strata of human beings in a society, with the remarkable possibility of one being an animal altogether, determined by his or her cognitive capability.

³⁸ ARNEIL, HIRSCHMANN, 2016, p. 66.

³⁹ ARNEIL, HIRSCHMANN, 2016, p. 65.

⁴⁰ ARNEIL, HIRSCHMANN, 2016, p. 68.

⁴¹ See ARNEIL, HIRSCHMANN, 2016, p. 65, footnote 23.

From this,

It follows that if classical contractarian arguments made in the name of freedom and justice, rooted in natural equality, included beings who were naturally unequal to able-bodied, able-minded white men as the physically and cognitively disabled, then the anti-absolutist logic of the social contract would be compromised.⁴²

However, why should we consider Kant's empirical writings over those with "frailties in the head"?

The author ascertains that,

Although seemingly contradictory, these two aspects of Kant's philosophy are in fact complementary: Kant's moral theory would only fall apart if he had not explicitly excluded the intellectually disabled from the category of citizens, persons, and humans in his empirical works. Put differently, a contradiction between what holds in theory (i.e., his categorical imperative) and what Kant deems as observably verifiable in practice (i.e., his empirical ethics) would only arise had Kant constructed the intellectually disabled as human beings in his empirical works.

Also in a dialogue with chapters 1 and 3, one can ask: "why should a contractarian approach be considered, if it is necessarily exclusive?". To demonstrate:

If a contract is a juxtaposition of wills to create agreed upon duties over those who willed it;

If there are people that cannot externalize their will, due to their cognitive capacity;

Then, there will be people that cannot partake in a contract;

If the social contract is a legitimation of a social order by its presumed contractors to exert legitimate normativity over them, and by doing so, endowing membership on its contractors;

Then, for every social contract, people unable to contract will not be members of such society or they will not be able to partake in the established order in an equal footing to those that contracted it and will be subject to illegitimate normative orders, since consent is the foundational touchstone.

⁴² ARNEIL, HIRSCHMANN, 2016, p. 72.

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Furthermore, for every exclusion, there must be a justification⁴³, and it this would rest upon the arbitrary election of cognitive capacity (as stated in the chapter 2); therefore, it would be a direct categorical exclusion of those who do not have it. However, no justification can directly rest upon an arbitrary choice, hence there is no possible justification furnished by a social contract in accordance with human plurality of cognitive capacity.

Besides this issue, it is also valuable to illustrate the contemporary difficulties, skirting the inadequate, of resting on long dated theories. In the XVIII Century, discussing the soullessness of “ideots” and “lunaticks”⁴⁴, was in accordance to the worldview then held. Enlightenment theoreticians, as hinted by Lucas G. Pinheiro, had this empirical strata as a foundation upon which their speculation was erected⁴⁵. Cherry-picking on those, albeit common, cannot avoid this problem. Therefore, coupled with descriptive inadequateness, the propositive ruin is inevitable.

From crumbles, space is made for the exploration of new grounds. Whilst arguing about “soul” and “spirit”, “mind” but not body and brain faces no prospect in the Third Millennium; the chase is set for new approaches, such as naturalistic⁴⁶, humanistic⁴⁷, neo-utilitarian⁴⁸ ones.

In a short conclusion, the book and the notes present herein a small step forward in relation to the state of the art concerning the intersections between Disability Studies and Political Theory.

4. A CLARION CALL TO FURTHER RESEARCH

In a short conclusion, the book and the notes present herein a small step forward in relation to the state of the art concerning the intersections between Disability Studies and Political Theory. To that aim, the appointments set constitute a basis upon which further research will be developed, lest disability will remain a voluntary blindness in philosophical thought.

Nonetheless, the merits of the book, when not purposefully reviewing literature, are tainted by the lack of scientific data and sheer sectarianism. The main challenge for the social sciences in the XXI

⁴³ GUTMANN, 2019.

⁴⁴ Locke’s theories discussed in GUTMANN, 2019, p. 21.

⁴⁵ As discussed *supra*.

⁴⁶ Namely, DE WAAL, 2010.

⁴⁷ PINKER, 2018.

⁴⁸ GREENE, 2014.

Century, as notes Edward Wilson in *Consilience: The Unity of Knowledge*⁴⁹, is to adapt to the new academic environment. New advances in medicine, neuroscience and physiology constitute the substrate on which the Disability Studies should now interpret and examine. The two cultures should converge in dialog, and Disability Studies should not ravel on its idealistic shell, lest it be in vain.

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⁴⁹ WILSON, 1998.