**Disability, Disadvantage, and Luck Egalitarianism**

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*ABSTRACT: In his* A Conceptual Investigation of Justice*, Kyle Johannsen suggests a theory of disability that holds that to have a disability just is to be worse off, sometimes referred to as the ‘medical’ or ‘individual’ model of disability. I argue that Johannsen’s understanding of disability might force some of his key claims into an uncomfortable position. In particular, for his theory to avoid the thrust of Elizabeth Anderson’s criticisms of luck egalitarianism, the assumption of the medical model of disability must be dropped, but this comes at the cost of his criticism of John Rawls’ difference principle.*

*RÉSUMÉ : Dans son livre,* A Conceptual Investigation of Justice*, Kyle Johannsen semble invoquer une théorie du handicap selon laquelle le fait d’avoir un handicap, c’est être pire qu’une autre personne, un modèle parfois appelé le modèle de handicap «médical» ou «individuel». Je soutiens que la compréhension de Johannsen en matière d’invalidité peut mettre sa theorie dans une position difficile. En particulier, pour que sa théorie évite les critiques d’Elizabeth Anderson sur l’égalitarisme de la chance, l’hypothèse du modèle médical du handicap doit être abandonnée. Cependant, cela se fait au détriment de la critique du principe de différence de John Rawls formulée par Johannsen.*

**Keywords:** luck egalitarianism, disability, distributive justice, disadvantage

**Introduction**

I am deeply sympathetic to the views advanced by Kyle Johannsen in his terrific contribution to theorizing about justice. *A Conceptual Investigation of Justice* is a rigorous work that delves into difficult topics that have been afforded insufficient attention. Johannsen brings great precision and organization to what was previously a disconnected cluster of ideas and I am grateful that this contribution is out there from which new and exciting discussions and further clarity about justice can flow.

My commentary is mostly critical, but I hope to make the case that theorists of justice should be more aware of how unacknowledged assumptions about disability affect the normative desirability of their theories. I hope to show that such an assumption regarding disability in Johannsen’s work can affect his arguments in just the same way. In particular, I think Johannsen suggests a theory of disability that holds, not uncontroversially, that to have a disability is to be, just in virtue of that disability, worse off. This is sometimes grouped within a camp called the ‘medical model’ or ‘individual model’ of disability and is contrasted with the ‘social model,’ which rejects this necessary connection between having a disability and being worse off.

The structure of my commentary is as follows. After a brief canvas of two theories of disability and demonstrating their relevance to distributive justice, I will show that Johannsen’s language is consistent with or, indeed, assumes the medical model of disability. Next, I will argue that holding this theory of disability doesn’t allow Johannsen to escape with ease from Elizabeth Anderson’s criticism of luck egalitarianism, ultimately bearing on the desirability of Johannsen’s luck egalitarianism. Next, I will show that Johannsen can’t costlessly give up a commitment to the medical model of disability so as to rescue the overall account. That cost is his argument against John Rawls’ difference principle. In short, I will argue that Johannsen’s understanding of disability might force some of his other claims into an uncomfortable position. In order for Johannsen to avoid the thrust of Anderson’s criticism of luck egalitarianism, the implicit assumption of the medical model of disability would have to be dropped, but at the cost of his criticism of Rawls’ difference principle.

The argument I put forward in this commentary has, I think, one important upshot, which hopefully can be of value for a defence of luck egalitarianism. In her “What is the Point of Equality?,” Anderson engages in a well-known and thorough critique of luck egalitarianism. One significant criticism regards the luck egalitarian’s failure to consider the social barriers that are an affront to justice for persons with disabilities. Anderson’s argument, however, points to the wrong *source* of the disability injustice generated by luck egalitarian theories. For Anderson, luck egalitarianism does not “take seriously what the disabled are actually complaining about.”[[1]](#footnote-1) Luck egalitarians, like Richard Arneson, focus, incorrectly, on the condition of a particular individual. This focus is ill-placed, says Anderson, since it treats persons with disabilities as “deserving aid because of their pitiful internal condition” or as ‘unfortunate’ victims of bad brute luck.[[2]](#footnote-2) This is not objectionable only because of the attitudes it expresses to such persons, but also because it overlooks what persons with disabilities actually demand of justice; the latter “do not ask that they be compensated for the disability itself.”[[3]](#footnote-3) Rather, when we pay attention to the demands of justice of persons with disabilities, we see that such persons “ask that the social disadvantages others impose on them for having the disability be removed.”[[4]](#footnote-4)

What’s wrong with this criticism, however, is that it locates luck egalitarianism’s shortcomings in regard to disability justice as a sort of necessary entailment of the theory itself instead of the model of disability the theory incidentally assumes (but is not entailed by features of the theory itself). It is the latter that leads to the improper response to the demands of justice for persons with disabilities. The upshot of what follows is that I provide a way out, so to speak, for Johannsen (and other luck egalitarians) to avoid this criticism of luck egalitarianism. That is, in homing in on implicit assumptions of the medical (or individual) model of disability, I hope to illustrate that it is *this assumption* in particular that is doing the work, and not luck egalitarianism *per se*, in generating the undesirable treatment of persons with disabilities.

**Models of Disability**

Models of disability are theoretical devices that aim to understand what disability *is.* These models differ in many regards, but, for the purpose of this commentary, I will focus on how they differ with regards to locating the *source* of disadvantage for persons with disabilities. On one end of the spectrum is the medical model, which understands disability as a physical or mental functional limitation possessed by an individual. On this view, the disability itself is the (or primary) source of what makes an individual worse off. On the other end of the spectrum is the social model of disability, which states that disability is the disadvantage caused by institutions, norms, or other social factors that fail to be responsive to the different needs of people with impairments. For proponents of the social model, there is a distinction to be drawn between disability and impairment, where the former is socially constructed and supervenient upon the latter.[[5]](#footnote-5)

Both extremes of this spectrum have serious theoretical issues. The medical model is often seen as excessively harsh and failing to account for important cases, such as those persons with disabilities who appear to not suffer any sort of disadvantage. The account is also criticized for relying on some conception of ‘normal’ bodies, which is overly broad since there are world-class athletes who deviate from most definitions of a ‘normal’ body, yet we (or those proponents of the medical model) should be sceptical of classifying them as ‘disabled.’

The social model is often seen as overly broad in scope.[[6]](#footnote-6) The argument goes that since what makes a person a person with a disability is that she has an impairment that subjects her to socially imposed disadvantages, we could then classify the poor as disabled, which might be at odds with most intuitions. Another problem is providing a coherent distinction between impairment and disability that doesn’t run into the same issues as the medical model. The social model also runs into the problem of being committed to the view that disability simply disappears when the social causes of disadvantage are mitigated, which has been subject to much scrutiny as well.[[7]](#footnote-7)

I would like to now provide a sketch of the reasons why the medical model is normatively undesirable from the standpoint of distributive justice. At face value, these two models might not seem to bear significantly on distributive justice. According to both models, there are disadvantages suffered by a person with a disability and these disadvantages give us reason to distribute goods in such a way that mitigates such disadvantages. But which model we accept tells us why, what, and how to distribute in different ways. The medical model gives reasons to distribute because an individual is disadvantaged just in virtue of being, say, visually impaired. As a result, according to this model, a fair distribution might demand access to resources like guide dogs and other goods to help that individual (and individuals like them) navigate the world with greater ease. That said, on this model alone, a theory of justice might fail to account for institutional features and norms within society as contributing to other disadvantages, such as a disabled person’s limited opportunity to work, contribute to cultural institutions, and otherwise participate publicly. The medical model is consistent with understanding discrimination against persons with disabilities, but might look at such discrimination as unobjectionable since the disability carries with it certain disadvantages, as compared to their non-disabled peers, that might not be conducive to other areas of life. This is sometimes reflected in policies that provide financial incentives to discourage people with disabilities to work due to—as a matter of misfortune—not having relevant skills for the workforce.[[8]](#footnote-8)

The social model, however, would think about these issues quite differently. In terms of work, talents, and capacities, the social model views the disadvantages as being a matter of unfair expectations or norms affecting people’s perception of disabled persons’ abilities to contribute meaningfully to various areas of social life. So, instead of providing incentives that discourage the disabled from entering the workforce, social model theorists look at policies that remove social and political obstacles and undermine these norms to promote the social participation of persons with disabilities on equal terms.

**Disability in *A Conceptual Investigation of Justice***

Johannsen uses the case of a person with a disability in a few different ways throughout the book, but seems to, I submit, presuppose a medical model understanding of disability. As early as the second page of the book, a virtue of luck egalitarianism is said to be its coherence with intuitive judgements about justice, such as “what seems unfair about disabilities attributable to sheer misfortune.”[[9]](#footnote-9) This language locates the unfairness and misfortune in the disability itself, which seems to suggest that disabilities by themselves, and not necessarily the various social barriers or obstacles, have a natural or necessary disadvantage attached to them.[[10]](#footnote-10) Another quote from Johannsen strongly suggests this direct line between disadvantage and disability. According to Johannsen, “[c]eteris paribus, a disabled member of the worst-off class is disadvantaged relative to a typically functioning member of that class,”[[11]](#footnote-11) which is to say that an agent is worse off just because of a disability, all things being equal. The social model wants to resist this position by saying that having a disability and being worse off is a socially contingent relation and so it isn’t the case that, when all else is equal between two agents, the disabled agent just is worse off because of the *disability*. For the social model, we can’t draw such a conclusion about two agents without knowing the social and environmental factors within which that disability is possessed.

That there is a misfortune and something unfair about having a disability, on the face of it, seems to imply a view that disability is something that makes an agent worse off. It’s also certainly true that this statement could be uttered in the context of *existing* social arrangements that disadvantage persons with disabilities, and, therefore, be compatible with something along the lines of the social model. This interpretation would hold that the disadvantage is a result of the character of social arrangements in a certain context and not a deficiency of the internal capacities of an agent. That being said, the latter interpretation of the judgement about disability and disadvantage is not well supported by, nor entirely consistent with, Johannsen’s approach in the book. First, for Johannsen, the justification of a conception of a fundamental value has to do with its coherence with our intuitive moral judgements.[[12]](#footnote-12) But the *contingent* nature of the relation between the disability and being worse off (as a result of social arrangements) is, however, contested and requires too much reflection to qualify as the kind of intuitive or pre-theoretical judgement that justifies a fundamental value like fairness.

Second, and more importantly, the intuition about disability’s necessary connection to disadvantage plays an important part in Johannsen’s criticism of Rawls’ difference principle, selected by hypothetical contractors in the original position and behind a veil of ignorance. These contractors lack important information about their own society and its history, and thus, from the perspective of the social model, they are unable to determine whether the social conditions are in place for an impairment to qualify as a disability. As I will make clear below, for Johannsen’s argument against the difference principle to work, all things being equal, an impaired person, similarly worse off as a non-impaired person, necessarily suffers a greater disadvantage. This judgement, combined with the limited information contractors have behind the veil of ignorance, make it the case that the intuition about disability and disadvantage must be, for the purpose of the criticism of Rawls, assuming the medical model.

**Luck Egalitarianism and Respect for Persons with Disabilities**

It isn’t enough to say, however, that Johannsen holds the medical model of disability. What I want to establish in what follows is that, even if Johannsen, for whatever reason, finds the medical model of disability compelling, it does not necessarily save his normative account from possibly undesirable implications. Making this assumption about disability more explicit excavates new worries worth taking seriously. In particular, I think this assumption bears importantly on whether Johannsen successfully avoids Anderson’s well-known criticism of luck egalitarianism, i.e., that it fails to express respect.

Anderson argues that luck egalitarianism’s reasons for distributing benefits to members of society—on the basis of their bad luck in ability, talent, ambition, and the like—fails to respect agents’ dignity insofar as it treats the latter as objects of pity.[[13]](#footnote-13) This is put rather memorably through the use of an example wherein letters are sent out to citizens on behalf of the State Equality Board, one of which runs as follows:

To the disabled: Your defective native endowments or current disabilities, alas, make your life less worth living than the lives of normal people. To compensate for this misfortune, we, the able ones, will give you extra resources, enough to make the worth of living your life good enough that at least one person out there thinks it is comparable to someone else’s life.[[14]](#footnote-14)

Johannsen, rightly so, takes this objection seriously and seeks to address it. Following Carl Knight, Johannsen argues that luck egalitarianism cares about unfairness in the first place *because* people are respected as moral equals and, therefore, the unchosen disadvantages some bear ought to be rectified on this very basis.[[15]](#footnote-15) Put differently, luck egalitarianism takes respect for persons as a starting point to the theory’s ultimate aim of mitigating inequalities that are unfair.

I don’t think that this response avoids the problem. Anderson doesn’t claim that luck egalitarianism disregards people’s dignity altogether. It is almost trivially true that egalitarian theories see an important worth or status in persons that gives rise to reasons why they should be treated equally or why certain inequalities are unjust. Anderson’s criticism is that, in at least one regard, and, more specifically, with regards to respecting agents’ dignity, luck egalitarianism does not, in the end, successfully meet conditions that respect the dignity of persons.

At this point, it will be helpful to make use of a distinction in the dignitarian literature between status and condition dignity. The former refers to a person having dignity in virtue of some feature or set of features and on that basis being owed certain rights or benefits. Condition dignity, on the other hand, refers to whether one is in a state that is consistent with having a dignified life; the degree to which those duties, correlative rights emerging from status dignity, are fulfilled.[[16]](#footnote-16) Anderson’s criticism has to do with luck egalitarianism’s shortcomings with regard to securing agents’ condition dignity and not whether luck egalitarianism recognizes agents’ status dignity. Johannsen’s response falls short, however, since it only establishes luck egalitarianism’s consistency with status dignity.

Returning now to disability, Johannsen’s use of the medical model could, without clarification, run his response to Anderson into further trouble. The letter from the State Equality Board not only illustrates issues with luck egalitarianism as such, but also a fundamental problem with the medical model: it treats persons with disabilities as deficient and in need of repair, to be brought up to the level of non-disabled or ‘normal’ persons. This understanding of persons with disabilities by itself runs the risk of treating persons with disabilities as ‘unfortunate’ or ‘unlucky’ second-class citizens, independent of luck egalitarian commitments. Insofar as Johannsen holds them in conjunction—one is worse off just in virtue of having a disability and this is a matter of misfortune or bad luck—this renders his response to Anderson ineffective. So even if Johannsen does preserve the status dignity of persons with disabilities by acknowledging them as agents worthy of benefits in the luck egalitarian scheme, Anderson’s criticism of luck egalitarianism still remains insofar as the medical model of disability is assumed and it treats persons with disabilities as pitiful, and, therefore, is an affront to their condition dignity.

**Rawls, Disability, and Disadvantage**

Now, if Johannsen is compelled by the arguments of advocates for the social model, then there is at least one cost associated with this manoeuvre and this is with respect to his criticism of Rawls’ difference principle. Johannsen’s criticism is that the difference principle fails to properly consider persons with disabilities because it focuses on the worst-off class *tout court* and does not pay attention to *why* those members of this class are the worst-off. It does not recognize that people with disabilities are in this class as a result of misfortune while others due to their choices. The intuitive judgement here, argued by luck egalitarians, is to say that the former have a certain priority in distribution over the latter, but Rawls’ overgeneralized principle would distribute over the entire class equally.[[17]](#footnote-17)

But if Johannsen were instead to drop the medical model and opt for a view that didn’t characterize the disadvantage of persons with disabilities as natural, then it isn’t obvious that this criticism of Rawls would work. Contractors in the Rawlsian scheme would not have to distinguish between being worse off as a result of poorly made choices and being born, as a matter of bad luck, disabled and thus worse off. This is because, for the social model, there is no intrinsic or automatic connection between being worse off and having an impairment. Without this direct line between disability and being worse off, then, Johannsen’s criticism falls flat, since there doesn’t seem to be a reason, *ceteris paribus*, to grant priority to the person with a disability just because of her disability. Now, this isn’t to say that the difference principle *does* cohere with our intuitions or considered judgements about distributions on the basis of brute and option luck. Indeed, we may have good reason to think that it doesn’t, and that it should be scrutinized on that basis. That said, it’s not the case that the difference principle doesn’t cohere with these intuitions *because* of how it handles the case of the disabled and the imprudent. This is because, assuming the social model, persons with disabilities are not automatically disadvantaged just in virtue of their disabilities; the possession of a disability is not a matter of bad brute luck *per se* and so the use of persons with disabilities to motivate the conclusion that the difference principle weighs equally the claims to distributive transfers of the reckless and imprudent as well as the unfortunate bearers of brute luck is unconvincing.

In addition, Rawlsians, with their sights of justice set on the basic structure of society, have the conceptual resources to recognize whether institutions are structured in a way that undermines the freedom and equality of persons as well as their equal liberties, opportunities, and fair distribution of other goods. Accordingly, then, Rawlsians could correct for the social disadvantages suffered by persons with disabilities, which result from an unjust basic structure. More to the point, they can instead organize the basic structure in such a way that doesn’t create, perpetuate, or ignore norms that undermine the fundamental freedom and equality of persons with disabilities.

**Conclusion**

Commitment to a medical understanding of disability might put Johannsen’s luck egalitarian position in an uncomfortable position. It would either have to accept some potentially counterintuitive or undesirable implications by assuming a medical model of disability, at which point Anderson’s ‘disrespect’ argument against luck egalitarianism might take on a new life, or, it would have to take on board a view that is sensitive to the social source of disadvantage for persons with disabilities, but look elsewhere for a criticism of Rawls’ theory. As somebody sympathetic to luck egalitarianism, as well as a person who holds a more social-oriented model of disability, I prefer the second route. There are plenty of other issues with Rawls’ account of justice from the standpoint of disability justice that can be used and there doesn’t seem to be anything about Johannsen’s other theoretical commitments that forgoes the possibility of holding a more social view or being neutral with regard to a theory of disability altogether. In addition, by maintaining the medical model, Johannsen’s luck egalitarianism doesn’t avoid Anderson’s other forceful objection, which states that what actually frustrates justice for persons with disabilities (and what they identify as unjust) are the social barriers and disadvantages imposed by institutions and others and *not* the internal conditions of such persons. Instead, opting for the social model of disability would allow Johannsen’s theory to correctly identify the source of disadvantage for persons with disabilities and respond appropriately to their corresponding demands.

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1. Anderson, p. 334. [↑](#footnote-ref-1)
2. Ibid. [↑](#footnote-ref-2)
3. Ibid. [↑](#footnote-ref-3)
4. Ibid. [↑](#footnote-ref-4)
5. For a survey and critical commentary of the medical and social models, see Riddle, Chapter 2. Also see Barnes, Chapter 1. [↑](#footnote-ref-5)
6. For an excellent survey of the problems with the social model, see Barnes, pp. 24–28. [↑](#footnote-ref-6)
7. See Riddle, p. 15. Also see Shakespeare, Chapter 2. [↑](#footnote-ref-7)
8. Silvers, p. 17–21. [↑](#footnote-ref-8)
9. Johannsen, p. 2. [↑](#footnote-ref-9)
10. For other instances of this, see Johannsen, p. 27 and pp. 38–39. [↑](#footnote-ref-10)
11. Johannsen, p. 27. [↑](#footnote-ref-11)
12. Johannsen, p. 32. [↑](#footnote-ref-12)
13. Anderson, p. 306. [↑](#footnote-ref-13)
14. Anderson, p. 305. [↑](#footnote-ref-14)
15. Johannsen, p. 38. [↑](#footnote-ref-15)
16. For a fuller elaboration on the concept of dignity and its various distinctions, see Gilabert, 2017, p. 554 and, more generally, Gilabert, 2018. [↑](#footnote-ref-16)
17. Johannsen, pp. 27 and p. 33. [↑](#footnote-ref-17)