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# The Perfectionism of Nussbaum's Adaptive Preferences

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Although the problem of adaptiveness plays an important motivating role in her work on human capabilities, Martha Nussbaum never gives a clear account of the controversial concept of adaptive preferences on which she relies. In this paper I aim both to reconstruct the most plausible account of the concept that may be attributed to Nussbaum, and to provide a critical appraisal of that account. Although her broader work on the capabilities approach moves progressively towards political liberalism as time passes, I aim to show that her account of adaptive preferences continues to maintain her earlier commitment to perfectionism about the good. I then distinguish between two obligatory kinds of respect for persons, which I call respectively primary and secondary recognition respect. This distinction allows us to see that that her perfectionist account of adaptive preferences allows her to show persons primary but not secondary recognition respect. Ultimately, I claim that an acceptable account of adaptive preferences must succeed in showing persons both types of respect. I conclude with some preliminary remarks on what such an account might look like.

Keywords: adaptive preference, perfectionism, Nussbaum, political liberalism, respect

## Introduction

In recent years, development studies has seen a surge of interest in the idea that people's preferences may adapt to circumstances of deprivation (Clark 2009; Khader

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2009; Khader 2011; Teschl & Comim 2005; Clark et al 2012). The concept of adaptive preferences, however, is at once extremely useful and deeply problematic. On the one hand, if persons adaptively endorse circumstances of injustice or deprivation, then their preferences offer, at best, questionable support for those circumstances. The concept of adaptive preferences provides theorists with a way of explaining both why this is so and what ought to be done about it. On the other hand, it may be both controversial and unclear precisely when and why preferences count as adaptive. This is problematic because a theory that improperly discounts a person's preferences as adaptive runs the risk of discounting her capacity as a moral agent as well. Accordingly, with the concept of adaptive preferences comes a serious tension between showing respect for persons as moral agents and developing an important tool for combatting and criticizing injustice.

The recent surge of interest in the literature is due in large part to the central motivating role that the concept of adaptive preferences plays in Martha Nussbaum's influential Capabilities Approach (1992; 2000b, 2003).<sup>2</sup> Recognizing that deprived persons may resign themselves to inadequate circumstances in order to avoid constant frustration, Nussbaum argues that justice requires focusing on whether persons are able to engage in a specific set of centrally important human functionings, rather than simply asking if they are happy with their circumstances. In other words, she makes central use of the concept of adaptive preferences as a tool for combatting and criticizing injustice. Yet despite the important motivating role that the concept plays in Nussbaum's work, she offers no clear account of it. Instead, as Serene Khader (2011, 19) rightly notes, Nussbaum relies heavily on intuitively compelling examples of preferences that seem to be obviously adaptive. For instance, she motivates her

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<sup>2</sup> Amartya Sen's work on the capabilities approach is perhaps even more influential than Nussbaum's own (Sen 1988; 1992; 1999). I leave his work aside in this article because he does not make the same substantive value commitments that I argue render Nussbaum's account problematic.

capabilities approach by appealing to conversations that she has had with women in the Indian state of Andhra Pradesh who had no access to electricity, teachers, or bus services, but did not think that this was a bad thing, ‘that being the only way that they had known’ (Nussbaum 2000b, 140). She similarly appeals to other women who adopt norms according to which they are owed less than their male peers in terms of education, employment, and health care without taking their situation to be unjust (Nussbaum 2006, 269; 1995, 91; 2011a, 54; 2000a). But Nussbaum does not ever explicitly tell her readers what ties these examples together: she never outlines principled reasons that a preference should count as adaptive.

This paper has two aims. First, I construct the principled account of adaptive preferences immanent in Nussbaum’s body of work. Second, I show that when the account is made explicit, it fails to show appropriate respect for persons as moral agents. To illustrate this, I provide a novel distinction between two different kinds of respect owed to persons, which I refer to as primary and secondary recognition respect. My main thesis is that Nussbaum’s account of adaptive preferences only succeeds in showing the former. I claim that the concept of adaptive preferences, if it is to be useful in either theory or practice, must be reconsidered in order to show both kinds of respect. Finally, I sketch some suggestions for a respectful account which maintains much of what is best in Nussbaum’s theory.

### **Why focus on Nussbaum’s account on adaptive preference?**

Nussbaum’s account of adaptive preferences is neither the only nor the best available in the literature. Indeed, Serene Khader provides her own rigorous and expansive account of the concept (Khader 2009, 2011), in part in response to

Nussbaum's reliance on intuitive but unprincipled examples.<sup>3</sup> Accordingly, the reader might wonder why I bother to extrapolate from Nussbaum's account, rather than engaging with the more explicit accounts already available. I do so for two reasons.

The first has to do with the influence of Nussbaum's capabilities approach, which the concept of adaptive preferences plays a central role in motivating. Nussbaum does not explicitly tell us what unifies her examples of intuitively adaptive preferences, but she does rule one possibility out: simple adaptation to limiting circumstances.<sup>4</sup> Nussbaum holds that some kinds of adaptation are positive and to be encouraged, as in the case of the child who avoids a lifetime of frustration by giving up his impossible preference to fly like a bird (2000b, 138). To distinguish this case from those that she counts as properly adaptive, she writes, we need something else – we need 'a substantive theory of justice and central goods' that gives us 'an account of what types of treatment people have a right to expect in central areas of their lives' (Ibid., 138). And of course, offering a list of central goods is the project at the very heart of her capabilities approach.<sup>5</sup>

But what exactly is the relationship between adaptive preferences and her list of capabilities? Are *all* failures to want such treatment adaptive preferences? And if not, which are? Given the influence of Nussbaum's account, there are important pragmatic reasons to ensure that these questions are answered explicitly. Deciding how and whether to respond to adaptive preferences is an important issue in

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<sup>3</sup> Khader's account differs from Nussbaum's in substantive ways as well. Khader holds that Nussbaum's method of developing a list of capabilities is elitist, and that Nussbaum is ultimately mistaken to turn away from a perfectionist account of adaptive preferences. As my discussion of perfectionism in this paper should suggest, I take Khader's appeal to perfectionism to undermine her otherwise excellent account of adaptive preferences.

<sup>4</sup> This account, offered by Jon Elster, is the one that initiated discussion of adaptive preferences in philosophy. See (Elster 1982).

<sup>5</sup> For various versions of Nussbaum's list of capabilities, see (1992, 222; 2000b, 86-88; 2006, 76-78; 2011a, 33-34). I do not include a complete list here both for considerations of space, and because, as we will see, my argument depends on the possibility that any of its various items *could* be controversial, not on the claim that any particular item is in fact problematic.

development, and academics and practitioners alike have turned to Nussbaum's work as a way of informing development practice (Lenneberg 2010; Uyan-Simerci 2007; Nagar & Raju 2003). Insofar as Nussbaum's broad account of capabilities proves to be influential, her account of adaptive preferences may be as well. Accordingly, her intuitive account must become more principled so that only genuinely adaptive preferences are targeted for change in the real world. While there has recently been increasing discussion of adaptive preferences in philosophy (e.g. Khader 2011; Bruckner 2009; Colburn 2011; Levey 2005) Nussbaum's unique influence on development ethics provides one reason to focus on her work.

There are also important theoretical reasons to focus on Nussbaum. As I said above, a tension exists between showing respect for persons and making the concept of adaptive preferences a socially and politically useful one. As the paper progresses, it will become clear that I take perfectionist accounts of adaptive preferences to be especially vulnerable to this tension. My second reason for focusing on Nussbaum in this paper relates to the transition that Nussbaum's theory undergoes. Although Nussbaum rejects perfectionism explicitly and completely in her later work (2006; 2011a; 2011b), the account of human capabilities to which her account of adaptive preferences is tied begins several decades earlier with a perfectionist account of the good and moves only gradually towards political liberalism. Her primary discussion of adaptive preferences occurs in the transitional period in the late 1990s and early 2000s when her account seems to have both perfectionist and political-liberal commitments. I will argue that her account of adaptive preferences seems, to its detriment, to maintain its perfectionism. The evolution of Nussbaum's justification for the capabilities approach makes her account uniquely suited to show the way in which perfectionist accounts of adaptive preferences fail to show respect for persons. These

criticisms, once developed, can then be applied more widely to other more explicitly perfectionist accounts of adaptive preferences, such as Khader's.

Since my argument is built on first developing and then rejecting Nussbaum's account of adaptive preferences, one might worry that I am creating a strawman version of her argument. The aim of this paper, however, is ultimately sympathetic to Nussbaum's broader project of the capabilities approach, which I consider to be important both philosophically and practically. I aim to highlight the main problems with her account of adaptive preferences in order for a better account to be developed. Since the capabilities approach is centrally motivated by the problem of adaptive preferences, such an account would provide a stronger foundation for Nussbaum's wider project. Unfortunately, due to space constraints, I must leave the project of developing such an account for another paper.

### **The benefits and drawbacks of a perfectionist account of adaptive preferences<sup>6</sup>**

Broadly, perfectionist moral theories hold that there is an objective human good at which persons ought to aim (Hurka 1993; Raz 1986; Arneson 2000). Since a full treatment of perfectionism is beyond the scope of this paper, I will focus on those perfectionist theories that claim that the good life consists in developing to a high degree whichever properties it picks out as those that 'constitute human nature or are definitive of humanity – [that] make humans humans' (Hurka 1993, 3). The candidates for this role are many, but any perfectionist moral theory must identify some specific good or set of goods that it directs persons to pursue. These goods will count as goods whether or not people actually *want* to pursue them, since

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<sup>6</sup> Strictly, the phrase 'a perfectionist account of adaptive preferences' makes little sense, since perfectionism is concerned with human excellences – or at least goods – while adaptive preferences are generally thought of as preferences for things that are neither excellent nor good. Nevertheless, for simplicity's sake, I will often use the phrase 'a perfectionist account of adaptive preferences' to mean 'an account of adaptive preferences defined in terms of a perfectionist account of human good.'

perfectionism holds that ‘what is good for its own sake for a person is fixed independently of her attitudes and opinions towards it’ (Arneson 2000, 38). And from perfectionist *moral* theories, it is a short leap to perfectionist *political* theories that hold that it is the role of the state to pursue and develop these goods, whether or not people endorse them.

Although she prefers the term ‘Aristotelian essentialism’, Nussbaum’s early justification for the capabilities approach is clearly perfectionist in the moral sense. By ‘essentialism,’ Nussbaum means ‘the view that human life has central defining features’ (1992, 205), and her view is essentialist in the sense that the capabilities on her list are meant to capture a set of functions that are intimately tied to a particularly human way of living. She notes explicitly that the capabilities that she discusses are not instrumental goods valued for their ability to bring about unnamed valuable ends, but are ends in themselves: they are a constitutive part of the ‘overall shape and content of the human form of life’ (Ibid. 215). Indeed, they are *centrally important* ends in themselves: the capabilities get at ‘what the *most* central features of our common humanity are, without which no individual can be counted ... as human’ (Ibid., italics in original).

But Nussbaum’s capabilities approach is also perfectionist in the political sense, and this leads her to endorse only a *limited* perfectionism. While she writes that we ‘urgently need a version of essentialism ... to construct an adequate account of distributive justice to guide public policy’ (Ibid. 229), she recognizes that people’s conceptions of the good are various. Accordingly, she holds that that trying to find one complete conception of the good to endorse at the level of government would be inadvisable. Practically, persons’ commitments regarding the good are simply too diverse for them to agree on one conception; morally, given Nussbaum’s emphasis on



practical reason, it would not even be desirable to use the capabilities approach to enshrine one complete conception of the good, since doing so would impinge upon the fundamental human ability to plan a life and to act in accordance with that plan (Ibid. 221). So Nussbaum rejects the idea of a perfectionism concerned with excellences, and instead focuses only on those things that constitute humanity at the most basic level. While persons across the world certainly disagree on what makes a human life excellent, she says, we do not disagree about what makes us *human*: here, she says, ‘we *do* share at least a very general outline of such a conception’ (Ibid. 215, italics added).

How do adaptive preferences fit into this perfectionist picture? At this early stage, although Nussbaum briefly appeals to examples of adaptive preferences to help to motivate her essentialism, she neither refers to the concept by name nor offers even a vague conceptual account. Accordingly, here more than ever, we must guess. Since Nussbaum is at this point concerned with those essential things that make us truly human and separate us from animals, we could perhaps say that adaptive preferences should be defined according to her list of capabilities: they are *those preferences that fail to recognize the value of the perfectionist goods on her list*. Note that this is a very broad perfectionist definition. The intuitive examples of adaptive preferences that Nussbaum appeals to all have at least two things in common that are not covered by this definition: failures to prefer items on the list are the result of deprivation, and that deprivation is unjust. I will use this broader definition at this point because it shows most clearly both what is appealing and what is problematic about a perfectionist account of adaptive preferences. While Nussbaum’s intuitive examples of adaptive preferences suggest the narrower definition, nothing that she says during this time period rules out the broader definition. However, the definition of adaptive

preferences that I ascribe to her will narrow when I turn to her later, more explicit, and supposedly non-perfectionist discussion of adaptive preferences.

Defining adaptive preferences in this perfectionist way is appealing, because it allows us to draw the line between adaptive and nonadaptive preferences in an intuitively plausible way. Any complete account of adaptive preferences will need to give some set of conditions for adaptiveness, and these conditions will require justification. Perfectionism provides that justification. Recall that the capabilities that Nussbaum lists are meant to form the core of the overall shape and content of the human form of life, and that adaptive preferences are preferences taken to be suspect in some way. Preferences that prevent persons from living in essentially human ways seem intuitively to be perfect candidates for such suspicion.

Defining adaptive preferences in this way, however, also has a significant drawback: persons whose conceptions of the good reject the items on the perfectionist list will not be shown the respect granted to those with ‘proper’ preferences. In the next section, I will distinguish between two especially important kinds of respect, which I call primary and secondary recognition respect. Although Nussbaum is alert to the way in which perfectionism might fail to show what I call primary recognition respect for persons, she at least initially fails to appreciate the way in which perfectionism might fail to show them secondary recognition respect. In her later turn towards political liberalism, she more clearly appreciates the severity of this second kind of disrespect, and modifies the justification for her capabilities approach accordingly. But as I will argue, the vague account of adaptive preferences that she continues to offer can be most plausibly understood to maintain its original perfectionist justification – and accordingly, to maintain the problems that come with perfectionism.

## **Perfectionism and two kinds of respect**

Let us consider the two forms of disrespect at stake. Nussbaum wants the state to adopt a substantive list of the capabilities because she recognizes that some persons will fail to want the items identified. But when such a failure occurs, a commitment to the list could licence two different forms of disrespectful response. In the worst case, it could license intervention into a person's life aimed at coercing her into the human functioning that she fails to prefer for herself. This sort of paternalistic coercion quite clearly violates a commitment to respect for persons as moral agents, since it denies them the ability to act on their conceptions of the good. But even in the best case, where coercive intervention is ruled out, we might still think that defining basic human functioning in this way at the state level fails to show respect for persons by refusing to recognize as valuable those preferences that conflict with the items on the list.

At first glance, these two sorts of disrespect seem to mirror the distinction made by Stephen Darwall between recognition respect and appraisal respect. Darwall writes that the former consists in 'giving appropriate consideration or recognition to some feature of [the object of respect] in deliberating about what to do', while the latter consists in 'an attitude of positive appraisal of [a] person either as a person or as engaged in some particular pursuit' (1977, 38). While the former is owed to persons by virtue of their personhood, the latter is discretionary. Darwall, however, does not flesh out the content of the consideration or recognition that we owe to all persons, and this must clearly be done if we are to determine whether Nussbaum succeeds in granting it. I propose that we distinguish between at least two different forms of recognition respect (although there may be more). Forcing persons to live in

accordance with Nussbaum's list would mean failing to show them one kind of recognition respect, I hold, because it would mean failing to show appropriate consideration *for persons as moral agents for whom the ability to live a life in accordance with one's own convictions has great value*. I call this kind of respect 'primary recognition respect.' Since the vast majority of contemporary moral and political philosophers hold either explicitly or implicitly that this is a central feature of personhood, I will not argue further for this point.

Even Nussbaum's early perfectionist account of capabilities can grant this kind of respect. As its name suggests, her capabilities approach makes the provision of capability rather than functioning the aim of public policy. That is, her list is only meant to be one of *opportunities* that governments must provide and that individuals can choose whether or not to take advantage of, rather than a list of functionings that the government must impose on citizens. In part, this is because the functionings associated with different capabilities will at times conflict with one another: for instance, the capability for practical reason protects the liberty of religious observance, and the person who observes a religion which requires her to engage in strenuous fasting may be unable to simultaneously achieve the functioning of bodily health, which requires adequate nutrition (Nussbaum 2000a, p. 87). Given this kind of trade-off and the centrality of practical reasoning to her list, Nussbaum recognizes the importance of giving content to the list in a way that does not remove from citizens 'the chance to make their own choices about the good life' (1992, 225). So the problem of primary recognition respect is solved on Nussbaum's perfectionist account if this emphasis on capability allows her to go further and to say that individuals who do not even *value* one of the central capabilities will not be forced into acting against their values so long as the capability for the unvalued item remains firmly in hand.

So while her perfectionist approach might not *approve* of individuals' non-flourishing-conducive choices, it still allows them to *make* those choices. And we might think that this disapproval is then a simple lack of appraisal respect, which is not similarly obligatory. Indeed, insofar as freedom of conscience is also important, it would be deeply problematic if showing respect for persons required each of us to take all of those persons' choices to have valuable objects. So perhaps holding that a person is wrong about the good is simply a matter of seeing her as not particularly good at the pursuit of moral reasoning. Since we do not owe it to persons to positively appraise their pursuits, this might be seen as a case of showing recognition respect, but withholding appraisal respect.

While this might be an appropriate understanding of endorsement of a perfectionist account at the individual level, I hold that it is inappropriate at the state level at which Nussbaum wants the list to be endorsed. While freedom of conscience is important for individuals, states are not the kinds of entities that can exercise such freedoms. They have, moreover, certain obligations to all citizens that individuals lack. To see how the state might violate those obligations, we must recognize that when the state endorses a list of capabilities *as a list of truly human functionings*, it does not just disagree with those who would make the content of the list different; instead, it makes a statement at the societal level about the moral *truth* of the values that are used to structure society. This is importantly not to say that the state makes a statement about moral truth every time that it commits a principle to law. Democratic citizens disagree, and states must often pass laws that some minority of their populations disagree with. But there is a great difference between the US Constitution's requirement in Article I that two Senators represent each state, and the portion of the Declaration of Independence that holds to be self-evident the truth that

‘all men (sic) are created equal.’ In the first case, the state only announces a principle adopted to make possible a shared political life between citizens who may disagree; the second makes a claim about the true nature of value, and thereby separates those citizens with true moral beliefs from those citizens with false ones.

The problem for Nussbaum is this: even a perfectionist account of the good that allows individuals to *act* in ways that do not accord with it seems to accuse those individuals who do so of a failure of moral reasoning. Since Nussbaum’s list aims to capture what the ‘most central features of our common humanity are’, it effectively says to those who disagree with it that they do not appropriately appreciate what it is that makes their lives human. Political and moral perfectionists may have no problem telling others that their beliefs about the good are false, but it is hard to deny that this creates a problem for equality. When we do so, we find ourselves with two classes of citizens: those who can appropriately be treated as authorities on their own good (and perhaps many other related matters), and those who cannot, no matter how strenuously they disagree. So as long as we can imagine someone who holds, upon careful reflection, that the opportunity for one of the items on the list has no value in his own life, we encounter not only an unproblematic lack of appraisal respect on any politically egalitarian state’s part, but a problematic lack of recognition respect as well.<sup>7</sup> In deciding how to evaluate the lives of citizens, the state that endorses a set of central human functionings fails to show them *secondary* recognition respect: it fails to consider the interest that dissenting individuals have in *being recognized as moral agents who are authorities on their own good, and whose conception of the good*

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<sup>7</sup> It may well be the case that both kinds of recognition respect are only *pro tanto* obligatory for the state. In some cases, the state may have obligations to some citizens which are strong enough to override its obligations to show other citizens secondary recognition respect. Think here of the post-WWII German state’s obligations to protect the interests of those targeted by neo-Nazis. I take no stand on this point; it is sufficient for my argument that the state should avoid making truth claims that violate secondary recognition respect when it can afford to do so. I thank an anonymous reviewer and the editors of this journal for pushing me on this point.

*should accordingly be taken seriously at least within, and perhaps beyond, the boundaries of their own lives.*<sup>8</sup>

### **A transition to political liberalism**

In her later work, Nussbaum recognizes the problems associated with what I have been calling secondary recognition respect, and changes her justification of the capabilities approach accordingly. In the late 1990s, she describes her transition as ‘a major change’ in the way she understands the capabilities project:

I now understand the list of central human capabilities as a specifically political form of liberalism, in the Rawlsian sense. I imagine that citizens of many different comprehensive conceptions can all endorse the items on the list, as things that are essential to a flourishing human life, whatever else that life also pursues and values. It is neither an exhaustive account of the good nor a metaphysically grounded account [...] The political account of capabilities has moral force, as does the political conception in a Rawlsian political liberalism; but it is not grounded in any theory of the human being that goes beneath politics (1998, 284).

Without using the term, Nussbaum, like Rawls, makes the turn on the basis of what Rawls calls the fact of reasonable pluralism: the fact that a plurality of reasonable but incompatible comprehensive doctrines is a permanent feature of societies with free institutions (Rawls 2005, 56). Since people have a deep allegiance to their comprehensive doctrines, both Nussbaum and Rawls recognize that their respective

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<sup>8</sup> A note on terminology: calling this form of recognition respect “secondary” might suggest that it is less important than primary recognition respect. I take no stand on this issue, and note only that some of the major criticisms of adaptive preferences in the literature are more closely tied to secondary recognition respect than to primary (Narayan 2002; Baber 2007, 126). Accordingly, a defensible account of adaptive preferences should be prepared to show persons both kinds of respect.

projects are bound to fail if they require individuals to affirm some other comprehensive doctrine over their own. Instead, individuals must be able to affirm Rawls's proposed theory of justice, and Nussbaum's proposed list of capabilities, in a way that is compatible with continuing to affirm their own comprehensive doctrines.

Given this major change in her justification of the capabilities approach, we should expect a similar change in Nussbaum's account of adaptive preferences. If she now wants to show respect for persons' conceptions of the good, even when those conceptions do not accord with the items on the list, then not just *any* failure to value these items should count as an adaptive preference. Her new account of adaptive preferences should seek to pick out those instances where *opportunities* are absent, rather than those instances – picked out before – where a person simply failed to value the items listed.<sup>9</sup> So now, we might expect Nussbaum's definition of an adaptive preference to look something like: *a lack of a desire for an item on the list, formed absent the capability for that item*. Such a definition would seem to fit her political-liberal justification, because it respects people's divergent choices and requires only that the items on her list be available to them. It also accords with both intuitive limits raised above: a preference is adaptive only if it is formed as a result of deprivation, and (insofar as Nussbaum takes the provision of capabilities to be a matter of justice, and insofar as adaptive preferences are defined in relationship to her list) the deprivation involved is always unjust.

As I will argue later, the treatment she gives of the concept of adaptive preference is not consistent with such a justification. This inconsistency can be

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<sup>9</sup> Note that this is a point about how one values a capability, not about whether she chooses a functioning. Even on a fully perfectionist account of capabilities, the person who chooses to fast for religious reasons need not have an adaptive preference, since she may value *both* the capability for religious observance *and* the capability to be adequately nourished – she may merely be choosing between incompatible functionings in a particular instance. I thank an editor of this journal for pushing me to clarify this point.



explained by the differences between Nussbaum's and Rawls's justifications of political liberalism. Although her reasons for adopting political liberalism are broadly Rawlsian, Nussbaum's political liberalism is not, as she notes in a recent paper, identical to Rawls's (Nussbaum 2011b). For our purposes, we must note two differences between their positions which Nussbaum does not justify in that paper. In the short passage from Nussbaum above, two ideas are clearly in tension: while she insists that her account is not metaphysically grounded and holds that her capabilities are not grounded in any theory of the good that goes beneath politics, she also refers to the capabilities as essentials of a flourishing human life.<sup>10</sup> This tension is indicative of the fact that Nussbaum fails, to her own detriment, to appreciate two elements of Rawls's turn: the role of self-respect, and the *way* in which Rawls's account is political.

Self-respect plays a central role in Rawls's theory of justice. Indeed, he holds that principles of justice can only be acceptable if they secure for persons the social bases of self-respect. Unless they do so, he says, those principles 'cannot effectively advance [persons'] determinate conceptions of the good' (2005, 319). This is because of the important function that he attaches to self-respect: it gives us, he says, 'a firm conviction that our determinate conception of the good is worth carrying out' (Ibid., 318).

Self-respect, on Rawls's account, has much in common with the idea of secondary recognition respect that I have been using. Just as expressing secondary recognition respect requires recognizing the interest that persons have in being seen as trusted authorities on their own good, a society that wants to ensure justice must facilitate the possibility that citizens can believe that their own determinate

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<sup>10</sup> In later works, Nussbaum shifts to talking about 'lives worthy of human dignity' (Nussbaum 2006; 2011a), but continues to tie lives worthy of human dignity to the question of whether 'certain ways of life that human beings are forced to lead' are 'fully human' (Nussbaum 2011a, 78).

conceptions of the good are worth carrying out. And this connection between the two ideas should make it clear why state perfectionism cannot express secondary recognition respect for citizens: perfectionism, having settled on a true account of human good, denies the truth of accounts that disagree – and without the possibility of seeing one’s own determinate account of the good as true, it is very difficult to see it as worth carrying out. Similarly, without the possibility of seeing oneself as an authority on one’s own good, it is hard to trust oneself to effectively direct the course of one’s own life, or to engage in political discussions about the course of a shared political life.

One might object that a perfectionist state could take steps to avoid such problematic claims about citizens. Perhaps, for instance, it could hold that a person is wrong about the good in a particular instance without holding that she must be wrong in every situation. After all, we must all make *some* errors in moral reasoning; it would be hubris to think otherwise. But such a response will be of little consolation to the person whose area of ‘error’ is itself central to her conception of the good and the course that she wants her life to take. The state could alternately hold that its certainty about the good is strong enough that it should claim to have true knowledge, despite a small possibility of error. But as long as the state *recognizes* as true only those value claims that accord with its own, it will still require a change in content before recognizing a dissenter’s reasoned convictions as potentially legitimate candidates for moral truth. And this is also problematic: it forces citizens who remain secure in their convictions to make the impossible choice between being seen by their state and fellow citizens as fundamentally mistaken for maintaining their deepest and most

reasoned convictions on the one hand, and abandoning those convictions in order to have their views respected by their state and fellows on the other.<sup>11</sup>

One might also hold that a perfectionist state that adopts Nussbaum's list has a unique way of avoiding this problem, because of the special emphasis that it places on practical reason.<sup>12</sup> Since Nussbaum gives a preeminent place among the capabilities to practical reason, which involves the ability to 'form a conception of the good and to engage in critical reflection about the planning of one's life' (2011a, 34), Nussbaum might require us to show secondary recognition respect to all of those who engage in practical reasoning. But as we will see, Nussbaum is unwilling to see persons as authorities on their own good in at least some cases: namely, those in which they have adaptive preferences (2000b, 159).<sup>13</sup> Given this, she would seem to be able to make use of the pre-eminence of practical reason only if she placed some limits on what counted a person's conception of her own good as reasonable. But here a problem arises: she cannot appeal to the content of the list to determine reasonability without begging the question against those who disagree, but it is not clear why any other substantive justification would require persons to see the contents of the list as valuable.<sup>14</sup> So it is unclear what account of reasonability Nussbaum might appeal to for this purpose.

Of course, this shows only that Nussbaum's *perfectionist* account will have trouble expressing secondary recognition respect for citizens, not that her new turn

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<sup>11</sup> Of course, not all adaptive preferences will fall among a person's 'deepest and most reasoned convictions', and those that do not may not raise the same problems for respect. But as long as at least some adaptive preferences *do* fall within that set, the problem for respect remains. For my argument that Nussbaum's perfectionism identifies some deep and reasoned convictions as adaptive preferences, see below. For a perfectionist argument that some adaptive preferences involve agency and moral reasoning, see Khader 2012; 2013.

<sup>12</sup> I thank an anonymous reviewer for raising this possibility.

<sup>13</sup> Presumably Nussbaum would not want to hold that persons who have adaptive preferences entirely fail to engage in practical reasoning. For related problems, see Jaggar 2006.

<sup>14</sup> There remains the possibility that Nussbaum might offer a procedural justification, according to which a person's conception of the good counts as reasonable insofar as she meaningfully holds all of the capabilities on the list. I discuss the problem with this suggestion below.

towards political liberalism should struggle to do so. To show this, I turn to the second element of Rawls's account that Nussbaum fails to appreciate: the way in which his liberalism is *political*.

Rawls modifies justice as fairness by making it into a decidedly political form of liberalism. For him, this means that the liberal commitments that it makes apply only to a certain area of life: to the basic structure of a society, which includes its main political, social, and economic institutions (Rawls 2005, 11-13). Since the scope of a political conception of justice is limited in this way, the commitments that it requires persons to make are similarly limited. In the political realm, political liberalism asks persons to endorse a shared conception of justice – but in all other matters, it leaves their commitments to the discretion of their own comprehensive doctrines. Importantly, the way in which persons are required to see themselves is similarly limited: in outlining the way in which political liberalism conceives of the person, Rawls writes that '[w]hen we describe the way in which citizens regard themselves as free, we describe how citizens think of themselves *in a democratic society when questions of political justice arise*' (Ibid., 33, emphasis added). This agreement on the status of persons is not supposed to represent a mere *modus vivendi*, since the political conception of justice is intended by Rawls to be a 'module' which fits into and forms a genuinely endorsed part of all reasonable comprehensive doctrines (Ibid., 12). But the model is also in no way comprehensive (Ibid., 13), and, as noted above, applies only to cases in which questions of political justice arise. So Rawls sets no requirement on the way that persons must see themselves, outside of their role as citizens.

It is not always clear that Nussbaum understands her capabilities approach to be political in quite the same way. In some places, her writing makes it clear that she

explicitly intends her list to be taken in Rawlsian ‘political-liberal spirit... as a list that can be endorsed for political purposes, as the moral basis of central constitutional guarantees, by people who otherwise have very different views of what a complete good life for a human being would be’ (2000b, 74). Understood in this way, it does seem plausible that her list requires no controversial value commitments – especially since it is meant only to point to constitutional guarantees that governments should be bound to provide. And often, it seems that these are guarantees that Nussbaum intends to be owed, as Rawls’s constitutionally enshrined two principles of justice would be, to persons in their capacity as citizens.<sup>15</sup>

But in other places, Nussbaum’s work is much less straightforwardly Rawlsian. Take the following passage: ‘[t]he central capabilities are not just instrumental to further pursuits: they are held to have value in themselves, in making the life that includes them fully human’ (Ibid.). Or, a passage written at a similar time, in which she states that hers is a ‘specifically political theory that is only *partially* comprehensive’ (1998, 284, emphasis added). Similarly, even in later work, she continues to tie the conception of human dignity that grounds the capabilities approach to ‘certain ways of life’ that are ‘fully human’ (Nussbaum 2011a, 78). Here, it is much more difficult to understand the capabilities as those things that citizens must be required to value for themselves and their fellows in the political realm. Instead, Nussbaum seems to say that individuals who subscribe to the content of the list adopted by the state must affirm something much more controversial: what it is that, at least at the most basic level, makes their lives *human*. And by taking a stand on a point like this, the state becomes unable to provide the social bases of self-

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<sup>15</sup> For instance: ‘the capabilities in question are important for each and every citizen’ (2000b, 6); ‘a list of human capabilities that are indispensable for any citizen’ (Ibid., 165); ‘What would it be to treat each citizen as an end, promoting the full range of the human capabilities?’ (Ibid. 252).

respect and so unable to show secondary recognition respect for persons:<sup>16</sup> in taking a stand on what makes lives human, the state makes it much more difficult to see as true – and so worth carrying out – those conceptions of the good that disagree about what makes lives human.

### **Perfectionism and internal capability**

If there is ambiguity as to which of the two options Nussbaum intends – that capabilities be seen as things owed politically to citizens, or as things that citizens are meant to see as the most basic elements of a good human life – the way in which she conceptualizes capability should encourage us towards the latter view. Nussbaum states in no uncertain terms that the capabilities on the list must not be understood in a ‘purely formal manner’ (2000b, 86). A person who formally has the right to an education does not have the capability to actually be educated if she lives so far from the nearest school that she cannot reach it, or if she cannot afford the required uniform, or if her teachers rarely show up to teach. Instead, *meaningfully* having a capability requires having access to the material conditions that make the associated functioning a real possibility.

But according to Nussbaum, we should not think of capability only in terms of external resources. On her account, capability should be separated into three parts: basic capability, internal capability, and combined capability (Ibid. 84). A *basic capability* is the latent internal capacity that can be developed into a capability. For instance, nearly all human beings are born with the capability to develop language,

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<sup>16</sup> Recall again that I am concerned here only with *truth* claims. The state might make some action, such as recreational drug use, illegal on the grounds that it tends to lead to harm, without denying that it might have any moral value. Of course, as the interest involved becomes more fundamental, as it might in the case of dangerous initiation rites, the situation becomes more complicated, and space constraints unfortunately prevent me from discussing the most complicated cases here. For discussion of fundamental interests, see LaFollette 2000.

and therefore literacy. But a child with these latent capabilities alone does not have the capability to read: if we give her a book, she cannot tell us what it says. So capabilities must also have *internal* components. Nussbaum calls these ‘developed states of the person herself that are, so far as the person herself is concerned, sufficient conditions for the exercise of requisite functionings’ (Ibid.). But while a child who has not learned to read lacks an internal capability, a child who has been taught does not necessarily have the full capability. Full capability is *combined capability*: that is, an internal capability in conjunction with the external resources to exercise the associated functioning. A person who is literate may have the ability to read, but she does not have the capability to do so unless she has access to books.

In introducing this tripartite distinction, Nussbaum herself uses the example of literacy, and its qualities make it a neat tool for spelling out the differences between the three elements. Jointly, these conditions do seem to accurately capture whether a person is able to do the thing that she has reason to value (in this case, read). And together, they also seem to give us a good sense of the point at which a person can *choose* not to exercise a capability: in order to meaningfully have the capability to read, a person must at minimum be literate, have access to books, and have the time to read them. Without any one of these components, the “choice” not to exercise her capability seems to be, in an important sense, a false one.

But the example of reading seems to me to be *too* neat, because it obscures in less neat cases what it is that having a capability requires. For instance, what does it mean to have another of the capabilities on the list: the capability to show concern for other human beings? It seems plausible that, evolutionarily, human beings have developed the basic capability to care for others, and it seems correct that meaningfully showing concern for other human beings would require external or

material conditions such that one be in a position to interact and communicate with others. But what might internal capability amount to in this case? Imagine that I have the basic capability and the external requirements for the exercise of the associated functioning, but that I have been raised to think exclusively of my own interests. If I take on this value set wholeheartedly, then it is implausible to say that my inborn capacity for caring and my proximity to others really gives me the *capability* to care for other human beings. In failing to recognize the value of caring, I am, in a meaningful sense, *unable to care*.

Indeed, many of the capabilities on Nussbaum's list seem to have a similar valuational requirement in their internal component: it is hard to understand how one can be able to be treated as a dignified being whose worth is equal to that of others if she does not *see herself* as the equal of those around her, difficult to see what it means to have the capability for sexual satisfaction if one sees sexual satisfaction as a fundamentally dirty or despicable thing, and hard to understand how one can *actually* live with concern for and in relation to the world of nature if she does not see nature as a thing of value.

Although Nussbaum does not herself make this point about value in her discussion of internal capabilities, statements that she makes in the rest of the book support it. Early in the book, she cautions that life circumstances 'affect the inner lives of people, not just their external options: what they hope for, what they love, what they fear, as well as what they are able to do' (2000b, 31). So it seems right that internal capability should, for Nussbaum, include not just technical skills like the ability to recognize letters and string them together into words, but also the space to



*value*: the ability to see an option as something to be hoped for, something to be loved, something the loss of which is to be feared.<sup>17</sup>

But thinking about capability in this way brings Nussbaum back towards her perfectionist account of basic human good. If having a capability is meant to be a prerequisite for meaningfully deciding not to exercise a functioning, and if actually having a capability seems to require appreciating the value of the thing in question, then in order to meaningfully decide not to engage in some functioning on the list, we end up having to say once again that an individual must endorse the value of all of the goods on the list.

### **Perfectionist adaptive preferences**

Let us return to the account of adaptive preferences that Nussbaum might give. Before, I suggested that on her account we should see an adaptive preference as *a lack of a desire for an item on the list, formed absent the capability for that item*. But at this point, having looked at Nussbaum's political-liberal account of capabilities, we are better positioned to see what such an absence of capability might amount to. I propose that we now see adaptive preferences on her account as *failures of internal capability that prevent people from appropriately valuing the substance of the capabilities on her list*.<sup>18</sup>

Although this definition is not explicitly offered in Nussbaum's work, I take it to be immanent in much of what she says on the subject. In preface to her discussion of adaptive preferences, Nussbaum notes that

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<sup>17</sup> Indeed, internal capability might even effect a person's combined capability to read if she has learned to do so but fails to see the activity as in any way valuable – which it might be rational to do if, as in the classic case of adaptive preference, she takes reading to have no value as a result of the inaccessibility of reading materials.

<sup>18</sup> I return below to the question of whether an adaptive preference must still be a function of deprivation or a matter of injustice.

Where there is lifelong deprivation, the distinction [between internal and combined capabilities] is not so easy to draw: persistent deprivation affects the internal readiness to function. A child raised in an environment without freedom of speech or religion does not develop the same political and religious capabilities as a child who is raised in a nation that protects these liberties (2000b, 85).

This passage suggests that it is indeed internal capability that is at stake in instances where adaptive preferences exist. And later in her discussion, Nussbaum recommends that in cases where people do not exercise capabilities that they *seem* to possess, we should refrain from *actually* attributing capabilities to them until we have determined whether ‘persistent inequalities or hierarchies may have created *emotional barriers* to full participation’ (2000b, 93, emphasis added). Although she does not use the term ‘adaptive preference’ here, the implication seems to be that persons who are not emotionally able to exercise a capability lack that capability as surely as those who lack the external resources to do so. And although there may be several kinds of emotional barriers to the exercise of a capability, a failure to *appropriately* value the capability seems to capture what Nussbaum has in mind in her intuitive examples of a woman failing to protest her husband beating her, or quietly accepting the lower-paid work in the brick kiln, or girls thinking that education is owed only to their brothers. In each of these cases, there may or may not be a *complete* failure to value the capability in question – the woman might, for instance, simply be unable to imagine a life without abuse, rather than thinking that there is nothing wrong with the status quo. But even if her failure is only one of imagination, it still seems to prevent her from *appropriately* valuing the corresponding capability to be free from assault: given its

immense value, it should be seen to have fundamental importance, not to be something whose absence can be tolerated if it is not convenient.

Calling these particular preferences adaptive may not seem to raise problems of secondary recognition respect, since it seems likely that the preferences in each case would count neither as deeply reasoned, nor as convictions. But what if they *were*? What if we are trying to decide whether or not the preference of a woman to have her genitals cut is adaptive? It is not too difficult to imagine that the woman in question genuinely finds uncut female genitalia ugly (Gruenbaum 2006). It is here, when individuals are *committed in considered ways* to values that conflict with those on the list, that problems of secondary recognition respect really arise. Even if a perfectionist who opposes female genital cutting, as Nussbaum does (2000b, 87, 94), holds that women should not be coercively prevented from undergoing surgery, the requirements of secondary recognition respect are violated when those women are told by the state that their firm and considered convictions are not and could never be compatible with their flourishing. Even if they can act on their convictions, the social bases of self-respect will be closed to these women. Yet this seems to be precisely the commitment that Nussbaum makes from within her political liberal position. In one of her clearest passages on the subject, Nussbaum states that adaptive preferences should be defined by their substance. Her version of the capabilities approach, she says,

addresses the problem of adaptive preference, again, by substantive rather than formal devices, as seems necessary. A habituated preference not to have one of the items on the list (political liberties, literacy, equal rights, or whatever) will not count in the

social choice function, and an equally habituated preference to have such things will count (2000b, 149).<sup>19</sup>

So, when habituated, we know that Nussbaum takes only those preferences that conflict with her list to be adaptive and non-authoritative. But we are left with a question that Nussbaum does not explicitly answer: does a *non-habituated* preference not to have one of the items on the list count as an adaptive preference? That is, does adaptiveness require injustice and deprivation, as we suggested before? For instance, given that I was raised in a community and family in which girls were expected to attend school, would I count as having an adaptive preference if I held that it was morally wrong for women to attend? Although her examples suggest that unjust deprivation is necessary, she does not explicitly answer this question. Let us consider the possibilities. First, she might hold that my preference is adaptive on the grounds that it conflicts with her list. This position, consistent with her substantive definition of habituated adaptive preferences, would clearly be perfectionist, and would make it hard to treat me as an authority on my own good. It would also, of course, conflict with her avowedly politically liberal position.

Alternatively, Nussbaum might hold that my preference is non-adaptive on the grounds that I possessed at all points the valuable opportunity in question. While this position is suggested by her chosen set of intuitive examples of adaptive preferences, it is even more problematic from the viewpoint of secondary recognition respect. While it allows me to remain an authority on my own good, it does not allow the same for those whose preferences were initially adaptive. This is because the account of

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<sup>19</sup> This commitment to the substance of the list is enforced when she calls preferences that conflict with her list 'corrupt and mistaken' (2000b, 160), and 'inadequate' and 'unwise' (2000b, 161).

adaptive preferences suggested by her discussion of internal capability and her claim that habituated adaptive preferences should be defined substantively, holds the content of preferences hostage to adaptiveness: it makes it impossible for a deprivation-based preference with a certain content to ever *become* non-adaptive. If I am right that Nussbaum's account of adaptive preferences is best understood as a (deprivation-based) failure of internal capability that prevents a person from appropriately valuing the substance of the capabilities on her list, then a person who initially 'adaptively' takes a capability to have no value can only develop a nonadaptive preference if she remedies this failure of internal capability by coming to appreciate the value of the capability in question. But once she has done this, her values will no longer conflict with the values on the list – she will be able to shed her adaptive preference, but only by changing it.<sup>20</sup>

The idea of adaptive preferences is valuable precisely because it is motivated by the importance of the individual's freedom to live according to the values that matter to her. Development ethicists, feminists, and others concerned with social justice are ready to consider the possibility that some preferences might be adaptive because they recognize that there are certain sets of circumstances, especially likely to be encountered by victims of injustice, that can prevent people from valuing the sorts of things that they would be likely to value in nearly any other set of circumstances. But if persons *do* continue to value the same things after much thought and in these various situations, then taking seriously the freedom of individuals to live according to their own set of values should require us to see these preferences as no longer

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<sup>20</sup> Recall that in some cases, a person may see an option as valuable without preferring it. This is obvious in cases of trade-offs between goods, such as the example offered by Nussbaum of the person who chooses to fast for religious reasons, trading the good of being well-nourished for the good of spiritual gain. But the cases that provide the greatest problems for secondary recognition respect are not of this sort: they are the cases in which persons, rather than making trade-offs between goods, simply deny that one 'good' is a good at all.

adaptive. Defining adaptive preferences entirely in terms of perfectionist content denies this freedom to all persons who disagree with the list. But defining adaptive preferences in terms of both perfectionist content and unjust deprivation-based genesis is no better. Indeed, it only adds insult to injury for those whose deprivation-based preferences are held hostage by their adaptive status. While they, who have already suffered so much injustice and deprivation, will never have their states recognize them as authorities on their own good in areas about which they feel strongly, those who have already benefited from privileged circumstances will be seen as authorities on preferences with exactly the same content.

In the end, an account of adaptive preferences should alert us to situations in which persons may not have the space to reimagine their preferences, *in order that such space might be made* – and Nussbaum’s broader political-liberal account of the capabilities approach is valuable precisely for its ability to do this. But an account of adaptive preferences should not categorize preferences as necessarily adaptive based on their content alone, nor should it encourage us to categorize them as very persistently adaptive in situations where this space has come into existence and preferences have been interrogated and maintained – and Nussbaum’s perfectionist account of adaptive preferences, unfortunately, continues to do this. Refusing to do this, is, at its heart, what showing secondary recognition respect requires. And in both theory and practice, this must be one of the chief goals of work on the concept of adaptive preference.

## **Conclusion**

While I have focused in this paper on clarifying and identifying the problems with Nussbaum’s own account of adaptive preferences, I take this critique to be useful

primarily insofar as it clears the way for development of a positive, non-perfectionist account of the concept. Offering such an account is clearly beyond the scope of this paper, but I want to close with at least a few gestures in that direction.

Think again of intuitive examples of adaptive preferences. Such examples might be unified in many ways: by the failure to want the treatment that human beings have a right to expect, by a dearth of human dignity, by endorsement of inequality, or by a toleration of persistently unmet needs, to name a few. Each of these is certainly a plausible and morally problematic unifying characteristic – but notice that each of them replicates the problem addressed in this paper. Relying on any one of these concepts will require giving a positive specification of a concept taken to have intrinsic value, and such specifications will also run the risk of treating disrespectfully those persons who disagree with them.

More promising, I think, is a reliance on this unifying characteristic: all of those preferences are ones that persons themselves would be expected to be highly unlikely to want to have were they to reflect on their own preferences in a considered way and in better circumstances. This unifying characteristic allows us to blame the badness of adaptive preferences on failures of circumstances to provide the instrumentally valuable opportunities that allow individuals the freedom to determine what they *do* in fact want, rather than on failures of persons to want things that accord with some intrinsic value. In this case, all of the other possible unifying characteristics – human flourishing, dignity, basic needs, and equality – could be used to formulate working lists, similar to Nussbaum's, that point to likely impediments to persons' developing genuine and thoughtful preferences. But importantly, the content of the lists would be taken to be only *instrumentally* valuable for persons developing conceptions of the good that would be robust across a variety of circumstances; no

claim would be made about the value of stable conceptions of the good whose content conflicted with those lists. Accordingly, lists similar to Nussbaum's could serve a useful purpose even while all problems associated with perfectionist lists were avoided. In other words, such an account would continue to offer a justification for the broader project of the capabilities approach, while doing what Nussbaum's account of adaptive preferences has not yet done: it would give pride of place to secondary recognition respect.

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