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Kel M. Wright
University of Vermont

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**Disability and Mere-Difference:
An Exploration of the Relationship Between Disability and Well-Being**

Honors Thesis

Kel M. Wright

Advisor: Associate Professor Tyler Doggett

Department of Philosophy

University of Vermont

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Abstract

The objective of this thesis is to evaluate and defend the mere-difference view of disability. In order to do this, I will first review Elizabeth Barnes's argument for a moderate social-constructivist understanding of disability. I will then review her presentation of the mere-difference view, and formally introduce a common and perhaps powerful objection to it—that it has unacceptable implications. Next, I will review some of Barnes's responses to one of this objection's common forms. I will then discuss objections raised against Barnes's responses—specifically, those raised by Guy Kahane and Julian Savulescu, along with Vuko Andrić and Joachim Wündisch—before offering my own responses to these objections. Finally, I will broadly review additional objections that may be raised against the mere-difference view and offer additional responses. It is my aim to defend the position that disability is something which, in terms of well-being, is neither necessarily good, nor necessarily bad. Rather, that disability is a mere-difference; that it is, itself, a kind of difference which is neutral with regard to its effect on well-being.

I am a man with Down syndrome, and my life *is* worth living... I have been asked to tell you how to improve the lives of people with Down syndrome. The key is right there in my opening... "I am a man." See me as a human being, not a birth defect, not as a syndrome. I don't need to be eradicated. I don't need to be cured. I need to be loved, valued, educated and, sometimes, helped.

[A] life with Down syndrome can be as full and exciting as any other... To those who believe the world would be a better place without us... we are the canary in the eugenics coal mine. Genomic research is not going to stop at screening for Down syndrome. We have an opportunity right now to slow down and think about the ethics of deciding that certain humans do not get a chance at life... How would the world react if a nation proclaimed that it would use genomic testing to make itself "Unpopular Ethnic Minority Free" by 2030? The UN already has a name for this. But, we need not go there. Instead, let us pledge together to welcome diversity. Let us decide from this day forward to include, not exclude; educate, not isolate; and, celebrate, not terminate.

~ Frank Stephens, addressing the United Nations
March 2018

Philosophy of disability is a relatively young area of study,¹ with many unresolved points and positions. One such unsettled area regards the valuation of disability as a difference. Long standing philosophical tradition positions disability as a difference in human form or function which is necessarily sub-optimal, detrimental, harmful, or otherwise *bad*. This stands in contrast with the contemporary views of many disabled people and disability rights activists, along with some number of philosophers, which position disability as a "mere-difference:" something with an overall neutral valuation, or minimal necessary impact on well-being. Other common examples of kinds of mere-differences include differences in sex, gender, sexual orientation, and even hair color. A person with brown hair, for example, does not necessarily have a better quality of life than a person with blonde hair, and vice versa. Similarly, if a person with brown hair were to change their hair color, and become blonde, there would not be any necessary change to their level of well-being. With regard to disability, the mere-

¹ Stanford Encyclopedia of Philosophy notes that disability, as a formal concept, did not enter into our language until roughly 200 years ago, when scientific thought began to lean towards putting "variations in human function and form into categories of abnormality and deviance."

difference view suggests that the difference between having a disability, and not having a disability, is philosophically equivalent to the difference between having brown hair, and blonde.

This position is far from uncontroversial. One common approach towards objecting to the view is to argue that if disability is thought of as a mere-difference, that this leads to any of a number of conclusions regarding the permissibility of causing or removing disability which strike philosophers and non-philosophers alike as clearly unacceptable. As a consequence, the view is often dismissed outright.

The objective of this thesis is to evaluate and defend the merit and strength of the mere-difference view of disability, especially as compared to this family of objections. To do this, I will first review Elizabeth Barnes's understanding of disability as a mere-difference, best described as being moderately socially constructed. I will then formally introduce the Unacceptable Implications Objections against the mere-difference view, before reviewing Barnes's responses to one version of it. Next, I will discuss some specific objections that have been raised to Barnes's response, before providing my own responses to these second-order objections. Finally, I will discuss some additional objections that may be raised against the mere-difference view, before presenting some of my own final thoughts on the matter.

It is my intent to argue that, while perhaps counter-intuitive, the mere-difference view seems to better (more accurately) represent the way in which the presence of disability correlates with people's well-being than does the bad-difference view. It is my aim to defend the position that, in terms of its effect on well-being, disability is not a kind of thing which is either necessarily beneficial or necessarily harmful. Rather, I defend the position that disability is a mere-difference; it is, by itself, something that is best described as neutral with regard to any necessary effect on well-being.

Background

The line of dialogue this paper aims to contribute to begins with Elizabeth Barnes's argument that disability itself, as a kind, is not necessarily a sub-optimal feature, and her observation that this position stands in stark contrast with philosophical tradition. While herself arguing that disability is a mere-difference (with no positive or negative valuation attached to it), Barnes observes that the positioning of disability as a sub-optimal difference is not generally one that is explicitly stated within the philosophical literature, rather one that is simply assumed to be true; as such it is not a position that is generally *argued for*, rather one that is taken to be so obviously true that it requires no additional justification.²

With regard to disability, there are two dominant frameworks for understanding and describing it: the social and medical models. The social model of disability is committed to the position that while differences in a person's physical condition may lead to an "impairment" of some sort, the detrimental and disabling features of disability are social in nature, resulting from social structural issues, or issues of interpersonal relations; this model seeks to relieve disability by "fixing" society. For example, because blindness involves an impairment—or, restriction—in the ability to see, as compared to typically sighted people, the social model holds that in order to "fix" the disability of blindness, the social world must change to be more inclusive and accommodating, by doing things such as ensuring that crosswalk indicators use not only visual indicators (lights), but auditory indicators (sounds) as well.

In contrast, the medical model assumes that the disability-making features themselves are detrimental and disabling features of disability; this model seeks to relieve disability by "fixing" the

² Barnes, E. (2014). Valuing Disability, Causing Disability. *Ethics*, 125(1), 88-113; Barnes, E. (2016). *The Minority Body: A Theory of Disability*. United Kingdom: Oxford University Press.

body. Because blindness is a difference in the ability to see, the medical model holds that it is this “ability to see” that must be changed or “corrected” in order to “fix” the disability of blindness.

It seems that the standard philosophical position (that disability is a bad-difference) is most closely connected with the medical model, while the mere-difference view is often considered aligned with the social model of disability. However, Barnes offers a framework for the mere-difference view that is an alternative to the standard social model. Barnes argues that disability is not necessarily a sub-optimal or detrimental feature at all, while still allowing that it can be a harm to an individual in some localized way—even under the most ideal social circumstances. Barnes assumes the position that neither the social or medical model of disability adequately consider the *experience* of disability (which does not always contain the desire for any “fixing” whatsoever) and envisions her position as a middle-ground between the two prevailing models.³

Why Mere-Difference?

While it may strike some members of the philosophical community as *obvious* that disability is something that is *bad*, or that it is something which is *bad for* people in general, it is a mistake to believe that this view is universally held. In fact, this, the bad-difference view, strikes many people outside of philosophy as *obviously wrong*. Members of the disability community—people with disabilities, along with their closest advocates and allies—have long held the position that to have a disability is simply to have a minority or deviant body, but not necessarily to have a broken, defective, or undesirable one.⁴

³ Barnes (2016).

⁴ This is not necessarily to claim either that the bad-difference view is held as obvious by all or most philosophers, or that the mere-difference view is held as obvious by all or most disabled people or their allies. There is debate between these views within the philosophical community, just as there is debate between these views within the disability community. Rather, this is meant to point towards the idea that while this debate seems to transcend any particular philosophical or disability affiliation, it also seems to be the case that the concentration of defenders of each view appear to belong to each of the aforementioned groups.

While the disability rights movement has formally been a social force in the United States since the 1960s, it would clearly be a mistake to believe that disability was a non-issue prior to that time. In fact, the social struggle for disability rights and equality long predates this movement. The introduction of the Americans with Disabilities Act (ADA) in 1990, and the adoption of the Individuals with Disabilities Education Act (IDEA) first introduced, under another name, in 1975, were meant to assist people with disabilities, to improve matters of inequality, and to restore justice to disabled people as a group. In many ways, they have. But it's important to consider that the adoption of these acts would not have been necessary were it not the case that there was a well-established, social-standard practice of treating and thinking of people with disabilities as less-than capable, or as less-than deserving of even such basic things as dignity and respect, or education and employment.

In fact, the struggle for equality can be traced back much, much further. The Anti-Defamation League summarizes the history in the following way:

People with disabilities have had to battle against centuries of biased assumptions, harmful stereotypes, and irrational fears. The stigmatization of disability resulted in the social and economic marginalization of generations of Americans with disabilities, and like many other oppressed minorities, left people with disabilities in a severe state of impoverishment for centuries.

In the 1800s, people with disabilities were considered meager, tragic, pitiful individuals unfit and unable to contribute to society, except to serve as ridiculed objects of entertainment in circuses and exhibitions. They were assumed to be abnormal and feeble-minded, and numerous persons were forced to undergo sterilization. People with disabilities were also forced to enter institutions and asylums, where many spent their entire lives. The “purification” and segregation of persons with disability were considered merciful actions, but ultimately served to keep people with disabilities invisible and hidden from a fearful and biased society.⁵

⁵ Anti-Defamation League. (2015). A Brief History of the Disability Rights Movement. In A.-D. League (Ed.), (pp. 4). New York, NY: Anti-Defamation League.

Today, even with protections such as the ADA and the IDEA, people with disabilities are subjected to sub-standard social treatment. They are routinely excluded from professional, educational, and social opportunities. They experience accessibility barriers in a world built primarily for typical-bodied people. Children with certain disabilities are subjected to rigorous behavior modification programs in an effort to train them to appear non-disabled. Disabled adults, all too often, are socially demoted to the rank of precocious child, prone to receiving condescending pats on the head from folks who find them oh-so-adorable. Stories of even mundane success are held up as examples of great inspiration, against the backdrop of the presupposed tragic figure. A great many people with disabilities, their advocates, and their allies, reject any notion that such circumstances are acceptable. We advocate for equal and just treatment, not just under law, but in every day social practice. We know we're fighting an uphill battle.

A nearly ubiquitous calling from members of oppressed communities is “nothing about us without us.” It is in this spirit that we, as members of the intellectual community, must take the time to listen. We must hear what people with disabilities have to tell us about life with disability. To summarily reject or devalue such voices is, as Barnes puts it, to be guilty of an epistemic injustice. We must listen when disabled people tell us that their disability does not negatively impact their quality of life. We hear it, again, and again, from people with a wide range of disabilities, yet there remains a strong resistance to this claim among the philosophical community. It is crucial that we reconsider our resistance; is it based on empirical fact, or on—perhaps well-masked—bias and presupposition?

As potential leaders of thought, philosophers may bear a special responsibility. Our thinking, and our arguments, hold the power to influence the work performed in any of a number of other fields. As such, it may even be the case that we, as a broad set of individuals, are responsible for the current state of disability affairs. After all, the roots of the “disability is bad” way of thinking can be traced back to Plato's Republic.

Plato should be understood as one of the first philosophers to introduce a conception of normative human embodiment based on rationally-identifiable criteria in direct contradistinction to a defective form of embodiment. That is, Plato's argumentation in effect creates a philosophical conception of disability as a type of deficiency when compared to that which is considered fully rational, healthy, or ideally human.⁶

If it is the case that philosophy is responsible for planting such seeds of inequity, then it seems it may also be the case that philosophy ought to assume responsibility for attempting to correct it. This is not to say, of course, that I am suggesting that we ought to accept the mere-difference view simply because the bad-difference view is socially uncomfortable. It is to say, rather, that we ought to take care to be mindful of our assumptions, and to compare them against the available backdrop of empirical evidence, as provided by both testimony and social science. I am suggesting that it would be a mistake to reject the mere-difference view simply because the bad-difference view is the more philosophically comfortable, or traditional, position.

In an effort to avoid this type of mistake, philosophers have developed and employed a presumably powerful family of arguments against the mere-difference view: the Unacceptable Implications Objections. This project examines the mere-difference view of disability, as Barnes develops and describes it, alongside this set of objections. It is my intent to consider these objections in relation to the available empirical evidence, and to evaluate them based on their proximity to necessary truths.

⁶ Kiefer, T. J. (2014). Reason and normative embodiment in plato's republic: On the philosophical creation of disability *Disability Studies Quarterly*, 34(1).

Chapter 1: Constructing Disability

One of the questions that must be answered before we may theorize about disability, is what it is, exactly, that is meant by the term; at least within the context in which it is being employed. Given the complexity of what the term “disability” may commonly refer to, it is important to address this matter directly before proceeding with an evaluation of the mere-difference view and the associated objections against it.

The Problem, as Barnes Describes it

Barnes acknowledges that a part of the problem that leads to disagreement regarding the valuation (good, bad, or neutral) of disability may be that it is not universally clear what is meant by the term “disability.” Given the broad range of characteristics or traits that “disability” is used to refer to, there is a legitimate question represented in asking what, if anything, there is that unifies this, as Barnes puts it, disparate set of particulars. There seems to be little, if anything, in common between, for example, deafness⁷ and achondroplasia (one form of dwarfism), or between Down syndrome and amyotrophic lateral sclerosis (ALS)—perhaps the most well-known contemporary example of the effects of ALS on the body being that of Stephen Hawking. Indeed, she concedes, if there is not in fact anything that unifies disability as a natural kind, then it may be the case that there is not, in fact, any real sort of thing that is meant by the term “disability,” and, so, no real thing to which we may apply such valuations. By her account, however, philosophers, in general, tend to assume that disability

⁷ I will be following cultural conventions when referring to deafness and Deafness, where the former refers specifically to the auditory difference of *deafness*, and the latter refers specifically to the identity of being a (culturally) Deaf person. When written as “d/Deaf” the term should be taken to be deliberately referring to both understandings simultaneously.

is some sort of kind, even if it is the case that such unifying mechanisms are not fully or explicitly articulated.

Certainly, philosophers often do talk about disability as a kind. We ask under what conditions, if any, it's permissible to knowingly bring a disabled child into existence. We ask what duties societies have toward disabled people. We ask whether disabled people pose a problem for certain theories of justice. And so on. But the question is whether this practice is in good standing. To say that it is, we need to be able to say that there's something unifying the heterogeneous group of things we label 'disabilities', such that it makes sense to engage in philosophical questions about disability in general, rather than about individual disabilities.⁸

For the sake of simplicity, Barnes strives to formulate an account of disability which properly captures what it is that we mean when we think or talk broadly of *physical disability* and makes no claim about whether such an account would be straightforwardly applicable to other types of disabilities, such as psychological or cognitive ones. Throughout the remainder of the paper, I will use the term "disability" to refer specifically to *physical* disability, as a sub-kind, unless otherwise explicitly noted. I understand *physical disability* broadly, as: any disability such that it is connected with a disability-making feature of the body itself, including those disabilities whose disability-making feature is sensorial or neuronal in nature. This is to say, I understand "physical disability" not as a term which refers only to those disabilities which clearly affect mobility, for example. Rather, I understand it as a term which also describes disabilities related to differences in sensory experience—such as blindness and deafness—and to disabilities related to neurological differences—such as epilepsy and cerebral palsy.

Barnes's Objective

Barnes is committed to the view that "to be physically disabled is not to have a defective body, but simply to have a minority body."⁹ She clarifies that while the typical mode of philosophizing about

⁸ Barnes (2016:9-10).

⁹ Barnes (2016:1).

disability is to approach the concept via applied ethics, or bioethics, her argument aims to be “more foundational” in nature, and attempts to point directly to what it is *to be disabled*;¹⁰ to experience life with a body that is unlike other bodies in an interesting and particular sort of way. Because Barnes is interested in exploring disability in this foundational manner, and because her view directly challenges the view that disability is something that is bad, she focuses her argument on exploring “the connection between disability and well-being” and pursuing “the idea that disability is a feature which is, by itself, neutral with respect to well-being.”¹¹ On Barnes’s view, any plausible theory of well-being will imply that disability, itself, is neutral in terms of well-being in general. Further, Barnes argues, this is true even though it is the case that we can point to specific examples of particular disabilities having some *bad*—even sometimes some *very bad*—consequences for individual people.

How to Characterize a Unified Account of Disability?

In order to defend the view that disability is, in and of itself, a neutral feature, Barnes proposes that the first necessary step is to develop some characterization—or, account—of what is meant by the term “disability.” For this, she outlines four basic criteria that such an account must meet:

1. A successful account of disability must be able to deliver correct verdicts for paradigm cases, while still allowing for considerations involving pre-theoretic judgments and hard cases.

¹⁰ There may be something interesting to be said about the potential distinction between “having a disability” and “being disabled.” Some defenders of this distinction might argue that one relates more to oppression and/or disadvantage than the other, and some may argue that, as such, they have different valuations (where one might be neutral, and the other might be bad). While it is the case that some level of controversy exists surrounding whether these sets of terms refer to the same concept, and while it is the case that there may be something interesting or important there that is worthy of further exploration, such a debate falls outside of the scope of this project. For the purposes of this paper, these terms will generally be taken to, at least, be referring to essential aspects of what is generally involved in the experience of having a body with an active disability-making feature. Both terms will be used, without prejudice, throughout the remainder of this paper whenever linguistically appropriate.

¹¹ Barnes (2016:9).

That is, such an account must demonstrate the obviously-correct verdicts in paradigm cases—such as that to have no arms is to have a disability, but that to have the body of an Olympic swimmer is not. At the same time, a successful account will allow for nuanced considerations of more complex cases, such as invisible disabilities, or those disabilities whose symptoms are fully mitigated by some form of intervention (such as epilepsy, fully controlled by medication).

2. Such an account must not prejudice normative issues. This is to say, a successful account of disability will not presuppose that disability is bad, or suboptimal, or negative.

Barnes's rationalization for this stipulation is that there is a case to be made for the claim that "it is not analytic or a priori that physical conditions such as deafness, achondroplasia, etc. are *bad*. It should be an open question – at least as we begin inquiry – that some of these conditions are *not bad*."¹² If, then, an account of disability builds in the stipulation that disability is *bad*, it leaves itself open to being unable to meet the first criteria laid out regarding paradigm cases.¹³ If disability is *bad*, and if deafness is *not bad*—the pre-theoretic position held by the majority of Deaf people and their closest allies—then deafness is not a disability. But deafness is a paradigm case of disability, so any account committed to "disability is bad" will be unable to meet the first and most basic criteria presented here.

3. A successful account of disability must be unifying, or explanatory; if there is something that unifies the many disparate cases of disability, a successful account must explain what that something is.

Legal definitions of disability, for example, seek to describe what "counts as" disability for the purposes of legal protection and/or access to services. While these are helpful, regarding the task for which they are designed, such definitions are simply inadequate tools regarding the search for what, if anything, actually unifies disability as a kind. Such definitions aim to offer a way by which to determine

¹² Barnes (2016:11). Emphasis hers.

¹³ Barnes specifically points to Kahane & Savulescu's 2009 account, "according to which disability is understood as anything that makes your life go worse for you." Barnes (2016:12).

if a person qualifies for some level of protection, service, or care, but they make no effort to—and are not able to—explain what disability *is*, or what unifies the many particulars in its kind.¹⁴

4. Such an account must not be circular.

A successful account of disability must not rely on circular reasoning such as would be expressed by the claim that: disability is unified in virtue of being subject to ableism, where “ableism” is understood to be prejudice and discrimination dealt out to real or perceived disability. Barnes thinks that this might be an obvious point, but one that is important enough to warrant explicitly stating as a necessary condition for any successful account of disability as a kind. If part of what it takes to be a successful account is to explain what disability *is*, then it cannot be the case, Barnes argues, that a successful account will be able to rely on circular reasoning such as “what unifies individual disabilities is that they are all disabilities.”¹⁵

Disability as a Feature of the Body (Naturalistic Accounts)

Some accounts of disability—especially accounts of those disabilities which sub-categorize as physical disabilities—are such that they are committed to the claim that the unifying feature of disability has everything to do with bodies; that, at their core, disabilities can be reduced to something that is purely bodily in nature. Barnes argues that these accounts fail by virtue of being either too broad, or too narrow, and so including, or excluding, too much.

Disability as a departure from normal functioning or species norm

Barnes describes these types of accounts as “[p]erhaps the single most dominant idea within naturalistic accounts of disability.”¹⁶ The problem with accounts which describe disability solely as a

¹⁴ Barnes (2016:12).

¹⁵ Barnes (2016:13).

¹⁶ Barnes (2016:13).

departure from *normal functioning*, Barnes argues, is that they fail for reasons of overgeneralization; they simply falsely allow too many cases of paradigmatically not-disabilities to be counted as disability. The argument goes like this: Michael Phelps, as a historically successful Olympic swimmer, is a person who has a body which functions in a way that is a departure from normal functioning or species norms. This departure from normal functioning may be counted as a disability, under the terms of this account. But, Michael Phelps's differences are not such that they would pre-theoretically incline someone to say that having these differences means that Phelps has a disability.

One way to attempt to resolve this problem may be to clarify that the atypical functioning only "counts" as disability when the departure is negative in nature. Barnes refers specifically to one such attempt.

[A]s Norman Daniels¹⁷ remarks, the concept of normal functioning needed here is 'not merely a statistical notion...Rather, it draws on a theoretical account of the design of the organism.' Disabilities are *negative* departures from statistically functioning, where 'negative' means deviation from the organism's design, rather than something normative or value-laden. It's often suggested that those functionings that might benefit the survival of the species should count as 'normal', whether or not they are (currently) had by the majority of species members. Likewise, functioning is non-normal insofar as it impairs or hinders survival and reproduction.¹⁸

This clarification, however, may create even more problems for the view. One such problem is that there are any of a number of paradigm examples of disabilities which do not interfere with survival or reproduction. For example, there is nothing about deafness, as a difference, that directly interferes with reproduction; the only thing deaf people cannot do is hear. Further, if a person's deafness has any impact on their health and longevity, it would very likely only be an indirect one, influenced greatly by differences in their access to the (hearing dominated) social world, which may impact, among other

¹⁷ Norman Daniels, *Just Health Care*. Cambridge: Cambridge University Press. (1985).

¹⁸ Barnes (2016:14). Emphasis hers.

things, their socio-economic status, or their access to health care. It would not, however, be directly related to their disability-making difference; that thing which is the cause of their deafness.

Another problem with this clarification, as Barnes points out, is that there are, arguably, paradigm examples of non-disabilities that do meet the reproduction-inhibiting criteria set forth by such an account.

If sexual orientation is at least in part biologically influenced (that is, if there are at least biological factors that predispose you to certain sexual orientations) then it looks like the normal function account might classify being gay as a disability, since being gay is statistically atypical and does not contribute to reproduction.¹⁹

Even if it is the case, in accounts such as this one, that “negative” is meant to refer to a deviation from evolutionary design and not to something “normative or value-laden”—which may be at least somewhat dubious—accounts such as this, Barnes argues, fail to sufficiently meet the first criteria for being a successful account of disability: correct verdicts in paradigm cases.

Disability as the lack of a physical ability that most people have

Accounts of this type similarly seek to describe disability as a departure from the norm, specifically in the form of a lack of common ability. For example, being blind involves the lack of a physical ability that most people have—the ability of typical sight—so, being blind is a disability according to this account.

Barnes’s first objection to this account is that it requires further qualification; standing alone, it is simply too broad. The ability to roll one’s tongue, for example, may be an ability that most people have. But, it is false to claim that someone is disabled in virtue of being unable to roll their tongue, that is, in virtue of lacking this physical ability that most people have. In this way, and without qualifications, this account overgeneralizes.

¹⁹ Barnes (2016:15).

On Barnes's view, even with qualifications aimed at making it more precise—such as “lack of a *significant* physical ability that most people have,” or “the lack of an ability that most people have, *the lack of which has a substantial impact on daily life*”—this account similarly fails Barnes's first criteria for a successful account.²⁰ We can easily point to particular cases of disabilities—Barnes suggests rheumatoid arthritis and achondroplasia as examples—as being such that they do not cause a person to *lack* a common physical ability. In other words, *lacking a significant ability* is not a necessary feature of being disabled. It may indeed be the case that having these types of disabilities—rheumatoid arthritis, achondroplasia, etc.—means that utilizing an impacted ability results in the experience of pain, or that there are limits to how long, or how often, or even under what conditions such abilities can be accessed or utilized, but it is not necessarily the case that the affected significant physical ability is “lacking,” per se.

There might be an inclination to object to Barnes's claim that disabilities such as arthritis and dwarfism—to generalize both, slightly—do not involve some sort of a *lack*; perhaps a lack of capacity, or a lack of ease. Sure, the argument might go, a little person might be able to do everything that an average-height person can do, but they can't do most of it as easily, or as comfortably, and there are many things that they tend to not be able to do at all without some sort of accommodation or assistance. Barnes's response to such an objection might be something to the effect of: these things might be true, perhaps even typically true, but they're not *necessarily* true. To offer a simplistic example: it is not necessarily true that someone with arthritis cannot open jelly jars, even if it is typically true that many—or even most—people with arthritis cannot open jelly jars in a typical way.

This might seem to be a point in favor of a bad-difference view. After all, if having such a disability means *lacking* the ability to perform typical tasks in a typical way, then it might be the case that having such a disability means dealing with something that is bad, or harmful in some way. But,

²⁰ Barnes (2016:16). Emphasis hers.

the point of Barnes's project is to address the claim that disability necessarily negatively impacts *well-being*. Given this, it is not at all clear that *even if* it is the case that to have such a disability is to have such a lack of ease, that this is something which necessarily negatively impacts well-being at all.

To explore this thought further, consider that the fact that people with dwarfism cannot typically reach the top shelf of their kitchen cupboards without using a stool or ladder—while average-height people, perhaps, typically can—bears no direct weight whatsoever on their well-being. The fact that someone with arthritis might not be able to easily and comfortably open a jelly jar without some sort of assistance—while non-arthritic people typically can—bears no direct weight on their well-being. At best, Barnes might say, these examples demonstrate that these disabilities bear only indirectly on a person's well-being.

If a little person does not have, and cannot gain access to, a step stool then they might not be able to use the upper cabinets in their kitchen; this might inconvenience them, perhaps greatly, but it does not constitute there being a direct harm to their well-being as a result of their dwarfism. If anything, it is a harm to their well-being as a result of some aspect of the external, socially constructed, world. Similarly, if the arthritic person doesn't have a method available to them which helps open jelly jars, they might be inconvenienced, perhaps even greatly; but it does not constitute a direct harm to their well-being.

It might be the case that disabilities are such that they limit the way in which their bearer navigates a world designed for typical-bodied people, and it might be the case that this change has a non-neutral effect on well-being, but it doesn't follow from that that it is the case that the disability, itself, is responsible for this non-neutral effect.

Accounts which suggest that the unifying feature of disability has something to do with a lack of ability are problematic for another reason, Barnes argues, because there are particular cases where disability is something that is connected to having an *enhanced* ability, not a lack of one. As an example,

Barnes suggests “some forms of peripheral neuropathy” in which “nerves become hyper-sensitized,” which then leads to the experience of pain resulting from “even a mild touch.”²¹ Another example might be sensory processing disorder—at least, when this disorder involves a hyperfunctioning of sensorial or neuronal systems. If it is the case—and it arguably is—that there are some disabilities which involve an innate capacity that is above-and-beyond what is typical, then accounts which seek to describe disability as an innate *lack* of capacity (etc.) will never do. Because lacking an ability is not a necessary feature of disability, accounts of this type fail for reasons of undergeneralization. They simply exclude too much.

Disability as a Feature of Society (Constructivist Accounts)

Another common way to account for disability is to consider it as a thing which is purely the product of social structures or systems. On these types of views, the unifying feature of “disability” has nothing—or almost nothing—to do with bodies, and everything—or nearly everything—to do with society. It is not uncommon, on such a view, to talk of a distinction between “disability” and “impairment,” where impairment refers to a kind of difference in the body, and disability refers to the socially disabling effect of possessing such a difference. On these views, it is often assumed that if the social environment was such that the interactions it fostered with people who have these impairments were not different (in a socially negative way) from the interactions it fostered with people without such impairments—roughly, if ableism did not exist—then, “disability” (as it is referring, in this sense) would similarly cease to exist. In other words, this type of view typically holds that an impairment is a function of the body, while disability is a function of the social world.

²¹ Barnes (2016:17).

A Haslangerian model

Using a social constructionist framework, Sally Haslanger has developed a particular account of race and gender. Barnes considers what a constructivist account of disability might look like, were it to be formulated based on Haslanger's model. According to an account of disability modeled in this way, to have a disability would be to be observed by others as having a feature which marks one for experiencing systematic, subordinated oppression. On Barnes's construction of a model of this type, for a bodily feature to be a disability it must be a feature which, when considered, allows for the delivery of verdicts of truth regarding each of the following three criteria:

1. Its bearer must be "for the most part observed—or imagined to have—certain bodily features presumed to be evidence of defective bodily functioning."
2. These observed—or imagined—features signal to the observer(s) that their bearer is "someone who ought to occupy certain kinds of social positions that are in fact subordinate (and so motivates and justifies them occupying such a position)."
3. Being systematically subordinated, in this way, and in virtue of possessing these observed—or imagined—features, plays some role in their bearer's oppressive social position.²²

Barnes rejects this account. While it is the case that *to have a disability* is sometimes to have an observable feature which causes one to be subjected to a subordinated, oppressed social status, it is not the case that "disability" is such that it can be consistently and accurately described by criteria such as these. An account such as this one necessarily excludes cases of disability which are sometimes, or always, invisible (especially in typical social contexts), such as traumatic brain injuries, epilepsy, or deafness.

If we are to accept that disability is a thing which other people are able to identify as such, then we are to accept that people without disabilities—given that the majority of people in the world

²² Barnes (2016:32).

that would be doing such identifying are themselves able-bodied—are the prevailing, or dominant, authority regarding what counts as a disability and what does not. If what it means to be disabled is to be socially marked as such—by, for example, being a person in a wheelchair—then what it means to be not-disabled is to not be socially marked in such an observable way.

Indeed, it seems that this is often what happens in the real world. For example, it is not uncommon for a person with an (at least sometimes) invisible disability to be subjected to social ridicule for displaying and utilizing a disabled parking permit. It is not uncommon for members of the social world to assume that if a disability cannot be seen, then it does not exist, or is not disabling. But this is, clearly, a mistake. It is not necessary for the presence of a disability-making feature to be evident to others in order for a person with such a feature to, in fact, have a disability.

Another problem with an account of this type is that it also necessarily includes cases which *merely appear to be* cases of disability (especially in typical social contexts). If being marked in some way, so as to be identifiable by others as having a disability, is sufficient for actually having a disability, then it would be the case that—to employ Barnes’s example—instances of factitious disorder count as physical disability. A person with factitious disorder, “a psychological condition in which a person goes to great lengths to fake the appearance of an illness or disability,” may hold a strong desire to either be disabled, to become disabled, or to be perceived by others as being disabled.²³ In such cases, a person with this disorder will present themselves as having a physical disability—by using a wheelchair, or wearing leg braces, for example—when, in fact, they have no such associated disability-making feature.

By *convincingly* presenting themselves as having a physical disability, a person with this disorder may be subjected to a subordinated and oppressed social status, meeting the requirements set out by

²³ Barnes (2016:32).

such an account. But successfully meeting the criteria for this account's path-to-oppression does not mean that to have factitious disorder is to have a physical disability.

In other words, Barnes argues, this account also fails because it is not the case that being identifiable as disabled is sufficient for, in fact, having a disability. As an account of disability, then, this one fails on two fronts, as being identifiable as the subject of ableistic oppression is neither a necessary or sufficient feature of disability.

Identity-based social construction

Identity-based accounts of disability differ from Haslangerian models in at least one important way; Haslangerian models call for a person *to be identifiable by others* as having a disability, whereas identity-based constructions call for people *to hold a personal identity* as someone with a disability. On identity-based accounts of this sort, you are disabled if and only if you identify as a person who is disabled, or, alternatively, you have a disability if and only if you identify as a person who has a disability. But what does it mean to identify as disabled? Surely, it involves believing that you have a disability. One problem for this account, however, is that believing that you have a disability is not any more necessary or sufficient for your being disabled than is other people believing that you do.

Even if we take a more fine-grained approach to what it means to “identify as” disabled, this account runs into problems. A deaf person, for example, is someone whose body is such that they experience deafness; their auditory functioning is impacted in such a way that it has some sort of measurable impact on their sensorial interactions with the world at large. Some people with a disability-making difference that results in *deafness* may self-identify as someone who is deaf, while some others may not. A Deaf person, on the other hand, is a person who is deaf, and who identifies as being a d/Deaf person. Deaf people embrace Deaf culture, they take pride in—and are protective of—their d/Deaf community, and their language. They are generally well informed about d/Deaf history,

including social-justice movements. A *Deaf* person is necessarily someone who is deaf and who self-identifies as d/Deaf, whereas a *deaf* person might—in fact, some do—self-identify as a hearing person and deny their *deafness* altogether. Because deafness is a paradigm example of disability, and because all self-identified Deaf people are people who are deaf, it follows from an account such as this one that all Deaf people have a disability—in virtue of their deafness, and their self-identification as d/Deaf people—but that a deaf person who happens to not self-identify in this important sort of way does not. This seems clearly contradictory.

Using the same example, another problem with accounts such as this one can be brought to light. A Deaf person may—in fact, very many do—assert that they are not disabled, while also holding their *deafness* as an important part of their personal identity.²⁴ On an account such as this, a Deaf person's assertion that they are not disabled can only lead us to the conclusion that they do not, in fact, have a disability. Given that *deafness* is a paradigm, pre-theoretic case of disability, however, this seems quite problematic for the account at hand; it allows the account to deliver incorrect verdicts regarding paradigm cases and therefore fails Barnes's first criteria for a successful account.

It may also seem problematic for Barnes's argument. Given her account's position on the weight of experiential testimony, how can Barnes advocate that we disregard the testimony offered by large numbers of Deaf people themselves who tell us that they are not disabled? It seems that in cases such as these, there is something a bit subtler going on. Indeed, it may be the case that Deaf people who assert that they are not disabled have been very influenced by the social understanding under which "disability" is a thing that *is bad*. Such a view necessarily contrasts with the Deaf person's experiential view that their deafness *is not bad*, which may be what leads to the rejection of an identity otherwise understood as being connected to such "badness." In other words: identifying as "not

²⁴ I make no claims regarding the prevalence of the "not disability" and "not bad" views among the broader group of people who have the auditory difference of deafness.

having a disability” might be the same as identifying as “not having a feature which is bad.” In these examples, self-identifying as “not disabled” is not actually connected to the question of whether or not an individual is or is not disabled as the term is used in the context of the argument at hand—because the argument at hand *does not* presuppose disability to be “a thing that is bad”—rather, it is connected to a set of judgments regarding the perceived evaluative status of disability; its alleged *badness*.²⁵

Barnes raises another point regarding this type of account. Self-identifying as having a disability is not a necessary element of having a disability, but it is also not the case that identifying as disabled is sufficient for being disabled. Again, this can be demonstrated by considering the case of factitious disorder. People with this disorder, by definition, are people who self-identify as being disabled (typically, as being physically disabled), even when it is actually the case that they, in fact, do not have a physical disability, as the term is commonly understood.

Social construction and the disappearing body

By arguing that disability, as a kind, is unified in virtue of something which relates to the views held either by an individual or by society, Barnes points out, constructivist accounts run the risk of arguing that the actual body of a disabled person is entirely irrelevant with regard to whether or not that person’s body counts as being one that is disabled. The Haslangerian model counts only bodies judged by others as disabled, and the identity-based model counts only bodies judged by individuals themselves as disabled. Neither model offers a way to account for the fact that these bodies either are or are not disabled; regardless of who happens to judge them, in any particular way. On these views, the only relevant consideration regarding whether or not a person has a disability, is the content of thought—the opinions, the minds—of either an individual, or of society at large.

²⁵ Barnes (2016:34).

Regardless of whether disability is viewed as something grounded in the observational judgments other people make—which do not necessarily reflect reality—or as something grounded in self-determining judgments relating to identity—which are often influenced by a complex set of additional judgments made by both the self and others—disability is construed as, at best, only indirectly connected to how a person’s body *actually is*. This seems clearly mistaken; our judgments about whether a certain thing is a certain way do not at all bear upon the reality of how that certain thing actually is. I might judge myself to have a body fully fit for competitive swimming, and I might even self-identify as being a superbly excellent swimmer, but neither bears any actual weight on the reality of whether or not I have a chance of beating Michael Phelps in a race. Similarly, Stephen Hawking judging himself to be (and identifying as) able-bodied, would not have borne any weight on whether or not ALS is a disability, or whether or not Hawking himself was a disabled person.

Barnes argues that whether a person is disabled (or not) is not something that is true solely in virtue of their attitudes or social identity—this is to say, for example, that a person with ALS is disabled, regardless of how people with ALS feel or identify. It is also not something that is true solely in virtue of societal attitudes or social labelings—that is, ALS is a disability, regardless of whether or not other people judge a person with ALS to be disabled. Barnes argues that these sorts of truths demonstrate that it must be the case that whether a person *is disabled* (or not) is true, at the very least, in part by the way that their body actually is, and not merely in virtue of our situational judgments or feelings.²⁶

Moderate Social Constructionism

All of the accounts of disability surveyed, naturalistic and constructivist alike, have had problems. Purely naturalistic views cannot account for what, if anything, unifies disability as a kind, as

²⁶ Barnes (2016:38).

they cannot point to physical features (or attributes of physical features, etc.) which are common to all—or even most—of the many disparate particulars. These accounts also fail in their ability to reliably identify paradigm cases of either disability or not-disability. Constructivist accounts are similarly unable to point to any unifying feature of disability, or to reliably return correct verdicts regarding paradigm cases. Perhaps even more worrisome, constructivist accounts are such that they often end up discounting the importance of the real features of real bodies entirely. How, then, are we to construct an account of disability which meets all the criteria that a successful account of it should, if neither natural or social models will suffice?

Barnes's proposal is to consider disability through the lens of what she calls "Moderate Social Constructionism." This, she believes, allows us to formulate an account of disability that not only gives appropriate consideration for the real features of real bodies, but also for the fact that these real features interact in an important way with the social world. The construction, she suggests, is demonstrated by considering that when we think of "disability," we are thinking about something that is best understood as a cluster concept, in much the same way that we are thinking when we use terms such as "game" or "chair" to describe any of a number of notably disparate particulars.

As we reason about disability, there seems to be some set of rules, or criteria, of which a feature must meet a sufficient number in order to be counted as disability. The exact contents of these rules may be vague—causes chronic pain, limits mobility, necessitates the use of adaptive equipment, etc.—and we might disagree about how each criterion is, or ought to be, weighted. Still, Barnes argues, "cluster-concept reasoning" most accurately represents the way that we tend to think about what counts as disability, and it is this reasoning that produces the particular set of things which do, in fact, represent *what it is that we mean* when we use the term "disability."²⁷

²⁷ Barnes (2016:38-45).

For Barnes, one unambiguous criteria for what it takes for someone to count as having a (real) physical disability, is for that someone to have a real, physical, disability-making feature; one that is a real feature of the real body in question. Couching it in this way allows for correct verdicts in unusual cases, such as factitious disorder. But, she points out, there are at least some real bodily features which may count as disability in some cases but not others, so meeting this criterion alone is not necessarily sufficient for being a member of the set that represents what we mean when we say “disability.”

For example, there are—presumably—one or more particular bodily features commonly present among people who have asthma. But, it might not be the case that possessing these features necessarily means that you are disabled. It could be argued that a person with mild asthma—perhaps someone whose symptoms are so mild that they are best described as only an occasional inconvenience or nuisance—is not disabled in virtue of having a body with this particular feature. On the other hand, it could be argued that a person with severe asthma—someone whose symptoms are so significant that they require multiple daily steroid or nebulizer treatments in order to have their ability to breathe be properly maintained—is indeed disabled in virtue of this same bodily feature (the asthma-making feature; whatever it is that that is). This is not to argue that it is in fact the case that someone with “mild” asthma does not have a disability while someone with “severe” asthma does, or to argue that the bodily states of these two types of asthmatics are indeed identical. It is, rather, to argue that it is theoretically possible that the mere presence of a given disability-making feature does not *necessitate* the presence of disability, and that even criterion as straight-forward seeming as this may be quite nuanced.²⁸

Another way to consider what is meant by the distinction I am making between “disability-making feature” and “disability” is this. A disability-making feature, for our purposes, is a difference in the body; it is natural, it is causal. One example of such a difference might be “positive ulnar

²⁸ Barnes (2016:47).

variance,” an atypical congenital difference in which the ulna (one of the bones in our forearms) is longer than the radius (the other bone in our forearms). The presence of this disability-making feature may (but does not necessarily) lead to complications over time such as ulnar impaction syndrome, it can (but does not necessarily) lead to the progressive degeneration of the bones in the wrist and hand. If these effects do manifest it may be the case that they result in the presence of disability; they may interfere with hand grip and strength, and with fine motor skills; they may cause pain; they may necessitate the use of some adaptive or accommodating resources. In other words, the presence of this disability-making feature can lead to the manifestation of a disability, over some period of time. But, the presence of a disability-making feature alone does not necessitate the presence of disability. It seems, for example, that it may indeed be the case that a child who has such a disability-making feature, but whose day-to-day life is not at all impacted by the presence of such a feature (because there is not yet any bone degeneration, etc.), does not have a disability. The point I am attempting to make is that, on my view, “disability-making feature” refers to a physical cause, while “disability” refers to its (merely potential) effect.

Barnes proposes that “disability” is not a term that can be understood as being representative of a natural kind, rather one that is best understood as being representative of a complex social kind. That is, in order for the effects of disability-making features to be counted as “disability,” these effects must meet some vague and contextually complex social criteria. She also suggests that gender and race might best be described in this sort of way, as there are typically social, physical, and even contextual criteria that must be considered in order to describe what we mean when we theorize about such kinds of things.²⁹

Most specifically, Barnes is interested in the social context in which the term “disability” is meant to point towards the concept around which the disability rights movement, disability pride, and

²⁹ Barnes (2016:40).

disability culture is formed and focused. This type of social view, "sometimes called an *affirmational conception* of disability,"³⁰ unlike other constructivist views, does not hold that disability is a thing that is necessarily negative, or that we ought to want to have go away. On Barnes's view, then, what it is that is the unifying feature of the many disparate particulars of disability is "the underlying social solidarity" that such movements and views tend to foster. In her own words, disability is "the kind of thing that the disability rights movement is trying to make the world a better place to live with."³¹

It is important, here, to be clear about what it is that Barnes is attempting to argue. On my understanding, the argument is not that particular disabilities are disabilities by virtue of the fact that there is social solidarity present among the people with such particular disabilities. Rather, the argument seems to be that disability is a kind of thing about which people do (or could) form and experience such social solidarity. In other words, it is not the case that *deafness* is a disability in virtue of the fact that Deaf culture, pride, and solidarity exist. Rather, it is the case that Deaf culture, pride, and solidarity exist in virtue of the fact that *deafness* is a disability. If it were the case that Deaf culture, pride, and solidarity did not exist—or, even, if some number of Deaf people deny that deafness is a disability—deafness would still count as a disability because it would be so counted by the larger, and broader, culture and solidarity that exists surrounding disability, as a kind. Barnes's argument is that it is this ability to be so counted which is what it is that unifies disability, as a kind.

By prioritizing the conception described by these social views (over conceptions described by other social views), Barnes believes that this account—a *moderate social construction account*—is such that it meets all the criteria laid out for a successful account of disability. Her account of disability seeks to correct the mistakes made by other accounts, and, so, to be able to consistently deliver correct verdicts in paradigm cases of disability and not-disability, while not prejudicing normative issues. It identifies

³⁰ Barnes (2016:42).

³¹ Barnes (2016:48).

the unifying feature of disability, as a kind, as the fact that it is the subject of group solidarity and pride, as organized by complex cluster-type reasoning. It is not necessarily circular in nature.

Barnes acknowledges that “disability pride,” etc., is both broad and vague, and that some may object that its presence in her argument could suggest circular reasoning. She argues, however, that this is not the case.

I’ve tried to give an account of disability by appealing to the practices of the disability rights movement. But doesn’t that make my account circular, thereby violating condition (iv)? I don’t think that use of the term ‘disability’ is enough to render the account circular. Civil rights movements are individuated by what they do, not by their names. So, for example, there is a civil rights movement that focuses on mass incarceration, police violence, unequal sentencing, ‘stop and frisk’ rules, and impediments to voter registration, among many other things. There is another that focuses on marriage equality, sexuality-related hate crimes, equal access to partner benefits, and HIV awareness, among many other things. And then there is yet another that focuses on access to public spaces, opposition to eugenics, accommodations in the workplace and in education, availability of assistive technology, affordable access to care (both healthcare and personal assistance), and whose slogan is ‘Nothing about us without us.’ One doesn’t need to appeal to a prior understanding of disability to tell the difference between the disability rights movement and other social movements, or to single out the disability rights movement.

That being said, my account appeals to the disability rights movement as though it was a single thing. That’s a convenient simplification—but it is also an oversimplification. I don’t have an underlying theory of civil rights movements to offer, but it’s plausible that there might be lots of distinct (or partially distinct) social groups that fall under the broad heading of disability rights movements. I’m happy with the idea that there might be lots of different disability rights movements, or that—more parsimoniously—it’s simply vague or indeterminate which social group is referred to by ‘the disability rights movement’.³²

While there may be room for continued debate regarding the potential circularity of Barnes’s account—which falls outside of the scope of this project—it seems clearly to be successful in other very important ways. Her account of disability is unique from the others in that it is much more

³² Barnes (2016:48-49).

complex and nuanced. While strictly naturalistic accounts disregard the social components of what it means *to be disabled*, strictly constructivist accounts disregard—or perhaps minimize—the physical components of what it means *to be disabled*. Barnes’s suggested understanding, however, seeks to integrate these equally critical components of what it means *to be disabled*; to possess a minority body, one which deviates from the norm in a particular and philosophically interesting sort of way.

Stacking the deck

While some may argue that to not presuppose the “disability is bad” view is to unfairly prejudice an account in favor of the view that “disability is good,” Barnes argues that it does no such thing. Not presupposing that disability is bad, she argues, still allows for the potential determination that disability is in fact *bad*, and, she also points out, it is not the case that being a socially constructed kind necessitates that something is *not bad*. As examples, Barnes offers *being a victim of domestic violence*, *being a refugee*, and *being an addict* as examples of things which are at least partially socially constructed, and which may indeed be *bad* things that we seek to get rid of, because they are clearly things that are harmful. We needn’t presuppose that being an addict is bad in order to rationally conclude that addiction is something harmful we ought to want to prevent.

Similarly, it would be wrong of us to assume that being a member of any partially socially constructed kind leads to the conclusion that that kind is either neutral or good. The fact that domestic violence survivors may join in solidarity does not suggest that being a domestic violence survivor is something good (or neutral) that we ought to strive to become. Barnes’s position is clear: formulating an account of disability in this way does not prejudice the argument against the possibility that disability is bad, it simply demands that claims of disability’s *badness* be appropriately formulated and defended.³³

³³ Barnes (2016:53).

Chapter 2: Unacceptable Implications

One common way to argue against the mere-difference view of disability is to attempt to demonstrate that such a view has clearly unacceptable implications; this approach is commonly referred to as the Unacceptable Implications Objection (UI). These objections can be articulated as a pair of distinct arguments, which—when applied towards the mere-difference view of disability—would typically take the following formalized forms:

- UI: i. If disability is a mere-difference, then it is permissible to Φ .
 ii. It is not permissible to Φ .
 iii. So, disability is not a mere-difference.

and

- i. If disability is a mere-difference, then it is not permissible to Φ .
 ii. It is permissible to Φ .
 iii. So, disability is not a mere-difference.

Barnes, unsurprisingly, rejects the conclusions of these arguments, and has explicitly done so both in *The Minority Body*, and in a previously published paper, “Valuing Disability, Causing Disability” (2014). Given the strong conclusion drawn in this earlier paper, it is unsurprising that a number of philosophers have responded. In this section of this paper, I will first present my understanding of Barnes’s earlier response to a formulation of UI. I will then review rebuttals to Barnes’s response. Finally, I will offer my own responses to those rebuttals.

Background Assumptions of the Mere-Difference View

As a precursor to defending the mere-difference view against UI, Barnes clarifies some of the background assumptions that would—or, at least, could—be held by a defender of a strong version of this view. The first is that if disability is a mere-difference, then it is, itself, not necessarily harmful with regard to well-being.

Let's call views that maintain that disability is by itself something that makes you worse off "bad-difference" views of disability. According to bad-difference views of disability, not only is having a disability bad for you, having a disability would still be bad for you even if society was fully accommodating of disabled people. In contrast, let's call views that deny this "mere-difference" views of disability. According to mere-difference views of disability, having a disability makes you nonstandard or different, but it doesn't by itself make you worse off.³⁴

Barnes acknowledges that this distinction is complicated, considering the number of particular paradigmatic disabilities which, by virtue of their particular manifestations, may necessarily involve the loss or restriction of certain intrinsic goods.

The mere-difference view isn't simply the view that, on average, disabled people aren't any worse off than nondisabled people. It is perfectly consistent with the mere-difference view that the actual well-being of disabled people is, on average, lower than that of nondisabled people, simply because of how society treats disabled people. The mere-difference view also needn't deny that disability involves the loss of intrinsic goods or basic capabilities (and, *mutatis mutandis*, needn't deny that disability is, in a restricted sense, a harm—a harm with respect to particular features or aspects of life). It is perfectly consistent with the mere-difference view that disability always involves the loss of some goods. It's just that, according to the mere-difference view, disability can't be merely a loss or a lack.³⁵

The distinction, then, between the mere-difference view and various bad-difference views may prove to be quite subtle. Both types of views allow for the fact that at least some particular disabilities are such that they involve *pro tanto* harm; a harm to some extent. The difference between the views, then, as I understand it, may be that the mere-difference view, as Barnes articulates it, is specifically meant to relate to disability as a broad and diverse kind with both social and physical components. The bad-difference view, it seems, is aimed at considering simply the potential impact of disability-making differences. That is, bad-difference views might be primarily concerned with the physical aspect of disability, while mere-difference views might be equally concerned with both the physical and social aspects. It is possible for a disability to be such that it involves a "disability-making feature"

³⁴ Barnes (2014:89).

³⁵ Barnes (2014:90).

which delivers a pro tanto harm, but for it to also be such that it results in a “disability” which delivers some number of (either physical or social) pro tanto goods.

Given that the claim of the mere-difference view is that “disability,” itself, is a mere-difference, Barnes moves to build her argument around a second background assumption, namely that disability is, in relevant respects, analogous to features like sexuality, gender, and race,” as these are features which she believes are reasonably taken as examples of other kinds of mere-difference.³⁶

Responding to UI

Barnes’s primary objective in this paper is to demonstrate that the unacceptable implications raised fail in their effort to demonstrate that the mere-difference view is false. In doing so, she engages with the following commonly formulated version.³⁷

- i. If disability were a mere-difference rather than a bad difference, it would be permissible to cause disability.
- ii. It is obviously *impermissible* to cause disability.
- iii. Therefore, disability is not a mere-difference, it is a bad-difference.

And

- i. If disability were a mere-difference rather than a bad difference, it would be *impermissible* to remove disability.
- ii. It is obviously permissible to remove disability.
- iii. Therefore, disability is not a mere-difference, it is a bad-difference.³⁸

Barnes’s intent is to demonstrate that UI does not achieve what mere-difference deniers would like it to achieve and that it, therefore, does not have much force against the mere-difference view.

³⁶ Barnes (2014:94).

³⁷ John Harris, “One principle and three fallacies of disability studies,” *Journal of Medical Ethics*, 27(2001): 383-387; Guy Kahane (2009); Jeff McMahan, “Causing Disabled People to Exist and Causing People to Be Disabled,” *Ethics*, 116 (2005): 77-99; Peter Singer, “Ethics and Disability: A Response to Koch,” *Journal of Disability Policy Studies* 16 (2001);130-133.

³⁸ Barnes (2014:93). Emphasis, and use of the term “obvious,” are hers.

She argues that the implications suggested (that it may be permissible to cause disability, and that it may be impermissible to remove it) may be explained by principles which we commonly employ while reflecting on those ethical concerns which relate to matters of affecting such sorts of change.

[F]or some cases, treating disability as mere-difference rather than bad-difference does not entail the permissibility of causing disability. For other cases, it plausibly does allow such permissions, but in ways which are unobjectionable. Either way, the issue of causing disability is not one which undermines mere-difference views.³⁹

Barnes first identifies it as a mistake to think that the bad-difference view may be assumed, instead of needing to be either argued for or defended. To do so, she says, is to allow such objections to rest on brute intuition, which is not ultimately very philosophically productive. In fact, she argues, reliance on any form of a “bad-difference” assumption is a mistake for those seeking to discredit the mere-difference view. She writes,

[R]elying on brute intuition can offer little in the way of dialogue for those who simply don’t share the intuition (and who might be skeptical that the intuitions of the majority offer particularly good insight into the well-being of the minority). The causation-based objections are an attempt to do better—to get some independent traction on the mere-difference/bad-difference debate. They try to show that the mere-difference view has implausible, impermissible consequences, even by the light of its defenders.⁴⁰

In other words, because the mere-difference view is one which denies the bad-difference view, any presupposition of *bad-difference* on the part of the mere-difference denier is problematic. It stalls the argument, and mere-difference is not defeated. Barnes argues that this formulation of UI fails in defeating the mere-difference view, for reasons related to this presupposition, hidden within the reasoning which motivates its second premise.

Regarding the first premise: Context matters

Barnes raises a note of caution about the first premises:

³⁹ Barnes (2014:94).

⁴⁰ Barnes (2014:94).

- i. If disability were a mere-difference and not a bad difference, it would be permissible to cause disability, and if disability were a mere-difference, *im*permissible to remove it.

She works to clarify that there is not any sort of direct relationship between something being a mere-difference and something being, therefore, permissible to cause—or to cause to be removed—in others. A kind of difference being a mere-difference does not license affecting a change of this kind in others. Hair length is an example of a trivial mere-difference, but it is clearly impermissible, in most contexts, for one person to cut another person's hair without their consent. Occasionally employing analogous examples, Barnes demonstrates this position by considering factors such as transition costs,⁴¹ principles of non-interference (including matters of identity and expected risk),⁴² and license.⁴³

Even if blindness is a mere-difference, it is still not permissible to cause your friend to become blind by shining a laser at them, if your friend (who agrees that blindness is a mere-difference) does not wish to become blind, that is, if they have not given consent. Even if sexual orientation is a mere-difference, it is still not permissible to cause—or, to attempt to cause—your young, gay, child to become not-gay, because to do so would be to violate your child's autonomy, and identity. Even if disability is a mere-difference, it is still not permissible to create a disabled child instead of an abled child, when your doing so is motivated only by your desire to signal to others that you are not ableist, or when your doing so is motivated by some trivial reason, such as the toss of a coin.⁴⁴

Rejecting the second premise: Causing disability is not necessarily impermissible

Barnes is clear to point out that she ought not be taken as suggesting that a commitment to the mere-difference view means being committed to the position that causing disability is necessarily

⁴¹ Barnes (2014:94-97).

⁴² Barnes (2014:97-106).

⁴³ Barnes (2014:107-109).

⁴⁴ These are not the precise arguments that Barnes formulates in her paper, but I believe they capture the overall spirit of her examples.

impermissible. In fact, she argues, a defender of a strong version of the mere-difference view ought to instead take the position that causing disability may or may not be permissible, depending on the context of the situation in question.

If disability is a mere-difference and not a bad-difference, then we should reject the background assumption meant to guide our intuitions in [certain UI formulations]. It isn't wrong to knowingly cause a disabled child to exist rather than a nondisabled child to exist.⁴⁵

In short, Barnes argues that with regard to the permissibility of causing a change in disability status, what disability being a mere-difference tells us is that it is not necessarily the case that causing disability is impermissible.

Rejecting the second premise: Removing disability is not necessarily permissible

Setting aside the value-laden concept of a “cure,” Barnes suggests considering the permissibility of simply changing, or altering the presence of (dis)ability. Suppose a gay person wanted to become not-gay, and there was available to them a pill that would enact such a change, would their doing so be permissible? It seems most would say that yes, it would be. If a gay person truly desired to become a not-gay person, it seems ethically unproblematic to consider that it would be permissible for them to do so. It does not, however, seem to be the case that most people would judge it permissible for one person to cause, force, or coerce another person to change from being gay to not-gay (or from being not-gay to being gay). Why? For reasons of non-interference. Even if sexuality is a mere-difference, most moral theories would agree that it is not permissible for one person to change another person's sexual orientation in such a way.

⁴⁵ Barnes (2014:107).

What of this, then, with regard to disability? On Barnes's strong mere-difference view this analogy demonstrates that it is clearly the case that it may or may not be permissible to remove disability, depending on the precise circumstances in question. If there existed a pill which could remove a person's disability, and if someone with a disability desired to so act, then it would be permissible for them to remove their disability by taking this pill. It would not, however, be permissible for one person to cause, force, or coerce a person with a disability to take such a pill. Such an action, Barnes argues, would violate the very same principles of non-interference which we consider when reasoning about the permissibility of causing a change in status regarding other cases of mere-difference.⁴⁶

Barnes acknowledges that the conclusion that removing disability is—in at least some contexts—impermissible, directly contradicts with the second premise of this form of UI, which claims that such acts are indeed permissible. The claim that it is permissible to remove disability is a claim which disregards considerations such as interference and consent. If an act is permissible—full-stop—then it will not be the case that it is impermissible in circumstances where there is no consent. For example, it is permissible to perform CPR, even though the receiver of CPR is necessarily unable to consent. Many—perhaps most—actions are not like this. Context, and consent, matter. Given this, the most that UI may accurately claim as a second premise is something more like this.

- ii. It may or may not be permissible to cause disability, and, it may or may not be permissible to remove it.

Anticipating objections to the symmetry of her conclusions, Barnes clarifies that a defender of a strong version of the view ought nevertheless to make precisely this claim. She writes,

I think the defender of a mere-difference view should...say that, in fact, there is no discrepancy between the cases of causing an infant to be disabled and causing an infant to be nondisabled... I think [this position] is both more plausible and less extreme than it may appear on the surface... If noninterference principles are a good guide to

⁴⁶ Barnes (2014:110).

action in the case of causing disability, they should likewise be a good guide to action in the case of causing nondisability.⁴⁷

Barnes argues that these principles of noninterference can explain the commonsense position that causing disability is impermissible. If this the case—and it is—then these principles may apply equally well in explaining the position that causing disability is not necessarily permissible, and neither is removing it.

Symmetrical outcomes

Barnes's response to the second premises of this formulation of UI is that it is not the case that either causing or removing disability is *necessarily* permissible. Barnes acknowledges that this will be received as an apparently counter-intuitive conclusion but holds that this charge—of counter-intuitiveness—is not of great concern. Because this point—symmetrical permissibility—is indeed a particularly contentious one, it is worth quoting a significant portion of Barnes's presentation of this reasoning.

If she takes this line of response [that noninterference principles are a good guide to action in the case of causing disability and nondisability],⁴⁸ the advocate of the mere-difference view takes a position that conflicts with common intuitions about such cases (and with common practice). Is this conflict a problem for the mere-difference view? No—it's exactly what should be expected if (as most defenders of the mere-difference view contend) much of our reasoning about disability is clouded by implicit ableism and a poor understanding of the lives of disabled people. That is, if much of the way we think about disability is shaped by ableism, then simply using intuition as a guide...is a bad methodology. If "common sense" is affected by ableist bias, then we should expect that our intuitions aren't a particularly good guide to thinking about disability. And we should likewise expect that the mere-difference view will be committed to things that most will find counterintuitive. This point is a simple and familiar one: the intuitions of the (privileged) majority don't have a particularly good track record as reliable guides to how we should think about the minority, especially

⁴⁷ Barnes (2014:103).

⁴⁸ Barnes (2014:103).

when the minority is a victim of stigma and prejudice. Just consider how common it was, historically, to find it intuitive that homosexuality was some sort of perversion or aberration, to find it intuitive that nonwhite races were innately inferior, to find it intuitive that women were less rational than men. The mere-difference view claims that what most people find to be “common sense” or intuitive about disability (some version of a bad-difference view) is incorrect. We should thus expect such a view to challenge the received wisdom about disability and to make some claims that most people find “counterintuitive.” That doesn’t mean that the mere-difference view is utterly unconstrained. When its commitments are counterintuitive, it needs to be able to show how those commitments are nevertheless principled and consistent. Conflict with standard intuition in [certain cases] isn’t a problem for the mere-difference view, so long as it is a principled and explicable conflict. And I think the analogy to relevantly similar cases shows that it is both.

Insistence on a cause/remove discrepancy is doubtless motivated by the simple fact that most people assume that it is worse, *ceteris paribus*, to be disabled than to be nondisabled. But the mere-difference view rejects this assumption outright.⁴⁹

Barnes’s point is to reject the second premises of the formulation of UI to which she is responding because, she argues, they are not true. As they stand, they overgeneralize by virtue of lacking appropriate qualifiers. For example, it is not necessarily permissible to remove a d/Deaf person’s deafness without their consent, and it is not necessarily impermissible to cause deafness in others. Barnes’s charge is that unqualified claims—which may be taken to imply necessary truths—such as that it is impermissible to cause disability and permissible to remove it—are driven by common assumptions about the intrinsic *badness* and undesirability of disability, which we have reason to believe—given real-world socio-political context—may be inaccurate. So, then, the charge that the symmetrical outcomes of the mere-difference view are such that they run counter to “commonsense,” is not a charge she finds particularly concerning.

⁴⁹ Barnes (2014:104).

Barnes's Conclusion

Barnes acknowledges that there is a clear difference between the common judgment that it is impermissible to cause disability, and the mere-difference perspective that it may or may not, in fact, be permissible to do so. She also acknowledges the distinction between the common judgment that it is permissible to remove disability, and the mere-difference perspective that it may or may not be permissible to do so. Barnes recognizes that many will be uncomfortable with the conclusion that to either cause or remove may or may not be permissible. But, she argues, this is, in and of itself, not a sufficient reason to deny the mere-difference view. She concludes,

I have argued that mere-difference views of disability do not license the permissibility of causing disability (and conversely, the impermissibility of removing disability) in any way that undermines the tenability of the mere-difference position. In some cases of causing disability, the mere-difference view can agree that causing disability is impermissible. In other cases, the mere-difference view can say that causing disability is permissible—but unproblematically so. And likewise, *mutatis mutandis*, for causing nondisability. There is no direct route from adoption of a mere-difference view of disability to objectionable (im)permissibilities.

Notably, though, the explanation for why at least some cases of causing disability are impermissible is interestingly different for mere-difference views than it is for bad-difference views. A defender of a mere-difference view can easily say that many cases of causing disability are impermissible. But it is never the case that causing a nondisabled person to be disabled is wrong simpliciter. That is, many cases of causing disability are wrong, but they aren't wrong in virtue of the causing of disability. They are, rather, wrong for reasons separable from disability in particular: they involve unjustified interference or unjustified risk taking, for example. And I suspect it is this point that may be causing a lot of the confusion about what, exactly, mere-difference views are committed to. They can't say that a case of causing disability is wrong in virtue of the fact that the action causes disability—whereas bad-difference views can. But that by itself doesn't generate permission to go around causing disability. Lots of standard cases of causing disability can be wrong, according to mere-difference views, without being wrong in virtue of causing disability.

The most important thing to emphasize, in closing, is this. These causation-based arguments are intended to strengthen the case against the mere-difference view and to provide evidence in favor of the bad difference view. They cannot do this. The various

cases of causing disability—and the diverging viewpoints given by mere-difference and bad difference views on these cases—give us no independent traction on the question of whether disability is a mere difference or a bad difference.⁵⁰

Barnes makes three primary points in response to this form of UI. The first is that it is not the case that it is either necessarily permissible to cause disability, or necessarily impermissible to remove it; context matters, greatly. Next, when causing (or removing) disability is not permissible, this impermissibility is the result of factors other than the disability itself; that is, such acts are impermissible for reasons relating to interference and consent. Her final position is that, for these reasons, causation-based formulations of UI are unable to provide “independent traction” against the mere-difference view. As they stand, she argues, these second premises rely on a background understanding or presupposition of disability as bad-difference, which renders them unhelpful in the debate between these two views.

Responses to Barnes

The Unacceptable Implications Objections are meant to demonstrate that the mere-difference view is false, so Barnes’s explanations of why UI’s conclusion does not hold can—and does—strike some—perhaps many—as implausible. Given the seemingly counter-intuitive conclusions that Barnes’s strong mere-difference view draws, it is unsurprising that a number of philosophers have engaged with the arguments presented in this earlier paper.

For the purposes of this project, I have chosen to engage most deeply with response papers which were not directly responded to by Barnes in her book. First, I will discuss an objection to Barnes’s claim that principles of non-interference sufficiently explain why it is impermissible to cause disability. Next, I will discuss an objection to her claim that, as a mere-difference, disability is neutral

⁵⁰ Barnes (2014:113).

with regard to its effect on well-being; that neutrality itself is an unacceptable implication of the mere-difference view.

Area of concern: Disability as a real-world harm – the detrimental-difference view

Guy Kahane and Julian Savulescu (K&S) understand the mere-difference view to be committed to the claim, “[i]f disability has a negative effect on well-being, this is due, on this view, only (or very largely) to social prejudice or ‘ableism’, where that encompasses both the prejudiced attitudes of individuals and also unjust social arrangements.”⁵¹ As this is their understanding of the view, K&S argue that in order to defeat it, one must only demonstrate that disability has a negative effect on well-being due directly to the physical manifestation of disability in the body. That is to say, they believe that if it can be understood that the body of a disabled person is such that a person’s well-being is reduced, simply by virtue of their having a disabled body, then the mere-difference view will have been demonstrated to be false. Further, they believe that the truth criteria for this claim is minimal, which they take to mean that it is easily demonstrable as at least plausibly true.

Given that this is their understanding of the view—and of what is required in order to reject it—they lay out what they believe is necessary in order for the following formulation of UI to have force against the mere-difference view.

- i. *If disability is a mere-difference, then it is permissible to cause disability (and likewise impermissible to remove or prevent disability).*⁵²

K&S write that this version of UI has force against the mere-difference view, as they understand it, when used in conjunction with the position that “most of the conditions commonly described as disabilities are significantly likely to considerably reduce an individual’s level of well-being

⁵¹ Guy Kahane & Julian Savulescu, “Disability and Mere Difference,” *Ethics*, 126(3), (2016):775.

⁵² Kahane & Savulescu (2016:778). Emphasis theirs.

in the contingent physical and social environment that we actually inhabit and that this would remain so even if prejudice against disabled people are removed."⁵³ They refer to this as the Detrimental View.

K&S aim to reject the claim that any and all detrimental effects of disability are such that they derive from the social world; that is, that they are the result of ableist assumptions, structures, or systems. They seek to explain this rejection by arguing that not only is disability something that is indeed detrimental to a person's well-being, but that it is also something that would still be detrimental to a person's well-being even if our world was such that disabled people were no longer the subject of prejudicial and ableist forces. They write,

What is ultimately at issue between the Mere Difference View and the Detrimental View is whether the overall loss of options (and overall prospects) associated with disability is entirely due to prejudice and, more generally, to injustice. We most certainly don't deny that some of this adverse effect on options is due to injustice and therefore that the prospects of disabled people could, and most certainly should, be better than they actually are. But a great deal of this loss of options cannot, we believe, be traced to prejudice or other forms of injustice.⁵⁴

In other words, K&S argue, there is *something* about disability that makes it a harm to well-being: an objective loss of options which are lost as the result of the presence of disability, and not as the result of social injustice.

Regarding detrimental-difference

While, at first glance, there may seem to be little difference between K&S's proposed detrimental-difference view, specifically, and the bad-difference view, more generally, it does seem to be the case that they are distinct in one perhaps important way. The bad-difference view, as I understand it, holds that disability necessarily negatively impacts a person's well-being; that disability is a type of difference which is, necessarily, bad for you—it is harmful here in our actual world, and it

⁵³ Kahane & Savulescu (2016:776). Emphasis theirs.

⁵⁴ Kahane & Savulescu (2016:777).

would be harmful in any other world that we could possibly imagine. The detrimental-difference view, as I understand it, holds that disability is something which negatively impacts a person's well-being in this, contingent world, and would continue to do so, in this contingent world, even in the absence of the influence of ableism. In other words, K&S seem to intend to argue that the presence of disability necessarily constitutes a *pro tanto* harm, in this contingent world, and that demonstrating this to be true is sufficient for defeating the mere-difference view. As I understand it, the detrimental-difference view may seek to remain agnostic regarding any universally necessary effect of disability on well-being.

Kahane and Savulescu argue that the value of the detrimental-difference view is that it demonstrates that we needn't consider other worlds in order to demonstrate the supposedly *clearly harmful* effects of disability on well-being that would exist even in an ableism-free world. If they are right about this, it could indeed mean big trouble for the mere-difference view. The problem is, though, they don't do much to defend it. They write:

To reject the mere-difference view, we needn't believe that disability is bad. The claim is only that, in the world we inhabit, disability tends to significantly reduce one's good options, even when we set aside the impact on these options of prejudice against the disabled, and that therefore disability tends to make a person overall worse off. We therefore prefer to call this the *Detrimental Difference View*.

Barnes does not offer any argument in favor of the Mere Difference View, and we certainly don't have space here to offer a full defense of the Detrimental Difference View. But the basic idea is straightforward. To lack certain basic sensory, physical, or cognitive capacities is, in the world we actually inhabit, to also lack a broad range of valuable options and opportunities, as well as to find many of the remaining options significantly harder to pursue, compared to a similar person who does have these capacities.⁵⁵

They add, in a footnote, “[w]e assume here that it's generally true that if someone lacks a wide range of valuable options then their quality of life is likely to be lower than someone who does have these options. But the relation between options and expected well-being isn't always

⁵⁵ Kahane & Savulescu (2016:776). Emphasis theirs.

straightforward.”⁵⁶ For example, they might suggest, having no arms would make being a professional basketball player, or concert cellist, somewhere between very difficult and impossible. Similarly, they might say, being blind would make things such as driving a car, or being a mechanical engineer, somewhere between very difficult and impossible. It is this restriction on options, by virtue of disability, they argue, that is detrimental to well-being.

There seems to be two very important things contained within the combination of this passage and this articulated assumption. The first is an assumption that to have a disability is to “lack certain basic sensory, physical, or cognitive capacities,” which then leads to a lack of “a wide range of valuable options and opportunities.” The second is that lacking access to this “wide range of valuable options” is something that is likely to lower a person’s quality of life, as compared to the quality of life they would have had they unrestricted access to such options. The problem, here, is that it is not clear to me that either of these assumptions are true.

In the case of the first assumption, it is important to note, as previously discussed, that it is not the case that to have a disability is to necessarily lack any particular capacity, except, perhaps, a capacity of *ease*, which might ultimately prove to be the result of the contingent world, and which might not prove to be as valuable as K&S intend to claim. Indeed, evaluating this claim may mean considering more deeply what is being meant by “valuable.” Delving deeply into value theory, however, falls well outside of the scope of this paper. Instead, I will interpret the term in a common-usage sense, meaning something to the effect of: having the quality of being worthy, important, or necessary.

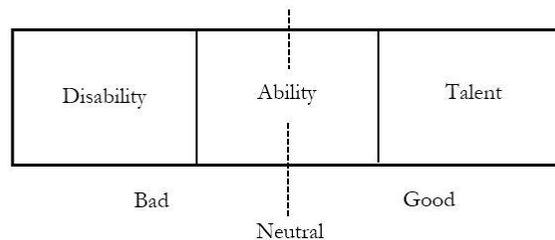
Given my understanding of this term, K&S may be taken to be assuming that to have a disability is to be (or is to be likely to be) harmed, by virtue of lacking a set of worthy, important, or necessary options that are otherwise typically available to non-disabled people. That is, they seem to

⁵⁶ Kahane & Savulescu (2016:776).

be considering “harm” as an interpersonal relational term. The question this seems to raise is whether this is the right way to consider what it means *to be harmed*.

It is no great challenge to consider talents or skills as being things which afford access to some set of important, worthy, or useful options. But it does not follow that people without such talents or skills have been harmed by their lack of access to this set of options. I am not harmed by my lack of ability to play concert piano, for example, even though I have good reason to believe that my being able to do so would afford me access to some distinct set of important, worthy, or useful options. It is also not the case that I am harmed—by my lack of the talent or skill required in order to play concert piano—in virtue of the fact that other people are benefited by their ability to do this very same thing.

I suspect, however, that K&S would argue that the disability/ability relationship is not analogous to the ability/super-ability (talent, or skill) relationship. I imagine that they are thinking about this ability trifecta, as it relates to its effect on well-being, as being something we could chart like this.



But, if talent is always better than ability, and if disability is always worse than ability, and if “typical” ability is centered around neutral, then it is not clear how this is meant to advance the argument that the mere-difference view is incorrect. If this is how K&S are understanding the relationship between differences in ability and their effect on well-being, then it seems that they are presupposing that disability is harmful to well-being.

Even if it is not the case that this is the most accurate way to represent K&S’s line of thought, however, there still seems to be a significant worry with their view. It is not at all clear that disability

is a kind of difference which necessarily involves a lack of valuable skill or options. It is not clear, for example, what loss of valuable options, if any, result from a below-the-knee amputation of the left leg. Such an amputee clearly has a disability, but it is not at all clear what valuable option it is that they are lacking access to. If it is K&S's position that such an amputee does not have a disability, then it must be the case that they are utilizing an alternate account of what is meant by the term "disability."

In either event, it is unclear to me that the detrimental-difference view does the work that K&S would like it to do. If it presupposes that disability is harmful to well-being, as compared to not-disability, then their argument fails to gain independent traction. But even if it does not make such a presupposition, there seems to be something quite incorrect about attempting to describe disability as a kind of feature which necessarily restricts access to a valuable set of options.

Area of concern: Neutrality

Some question has been called into whether neutrality, itself, is even possible for disability as a form of difference. A part of this concern may relate to what, exactly, claims of the neutrality of disability amount to. The worry seems to be divisible into three parts. In the first, it seems, to some, to be implausible that disability can be a neutral kind of thing when it is the case that we can point to any of a number of particular disabilities which seem to clearly have a non-neutral impact on well-being.⁵⁷ How can disability be neutral when at least some particular disabilities are clearly not? After all, "if there are good reasons to think that disability is harmful in paradigmatic cases, then there is no reason to accept a mere-difference view in more extreme cases."⁵⁸

⁵⁷ Vuko Andrić & Joachim Wündisch, "Is It Bad to Be Disabled? Adjudicating Between the Mere-Difference and the Bad-Difference Views of Disability," *Journal of Ethics and Social Philosophy*, 9(3), (2015); Greg Bognar, "Is disability mere difference?" *Journal of Medical Ethics*, 42(1), (2016); Kahane & Savulescu (2016).

⁵⁸ Bognar (2016:46).

It can also be argued that if disability is a neutral feature, then it ought to be the case that the presence of multiple disabilities would be just-as-neutral as the presence of one.⁵⁹ This seems, however, to clearly not be the case.

The final relevant worry seems to be related to what might be understood as a predominantly binary conception of influence. If things are such that they are either good or bad, then the boundary between these two becomes a very difficult target indeed. This point may be summarized with the following passage from Vuko Andrić and Joachim Wündisch (A&W):

Another, if less obvious, difficulty of the mere-difference view pertains to its specificity. Defenders of the mere-difference view of disability deny not only the bad-difference but also the good-difference view of disability. Therefore, the mere difference view is constrained on both sides of the spectrum of wellbeing and makes a rather precise claim about the differential effects of disabilities on wellbeing... [S]imply put, little systematic differences in wellbeing levels between disabled people and nondisabled people are required for the view to fail.⁶⁰

A&W argue that because the mere-difference view denies not only the bad-difference view but also the good-difference view, it seeks to make “a rather precise claim about the differential effects on well-being.”⁶¹ This can be interpreted as suggesting that neutrality, itself, occupies a “rather precise” space on the good/bad continuum, which strikes them as a significant weakness of the mere-difference view. To put this in terms of implications, A&W’s argument might be formulated something like this:

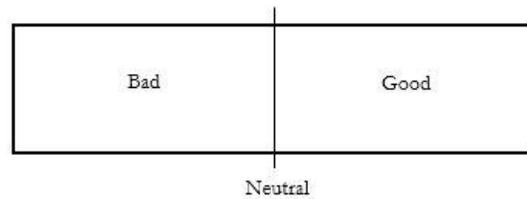
- i. If disability is a mere-difference, then disability has a precisely neutral effect on well-being.
- ii. Disability does not have a precisely neutral effect on well-being.
- iii. So, disability is not a mere-difference.

⁵⁹ Andrić & Wündisch (2015:12).

⁶⁰ Andrić & Wündisch (2015:12).

⁶¹ Andrić & Wündisch (2015:11).

I imagine that they are thinking of neutrality as being something we might chart like this:



I propose we think of this as a view of Perfect Neutrality, where “Neutral” refers to that “rather precise” point of demarcation between that which is good and that which is bad. Assuming such precision, A&W believe that “little systematic differences in wellbeing levels between disabled people and nondisabled people are required for the view to fail...the specificity of [this] claim alone makes the mere-difference view implausible.”⁶² If they are correct—about this precision—it does seem to be a point that counts against the plausibility of mere-difference.

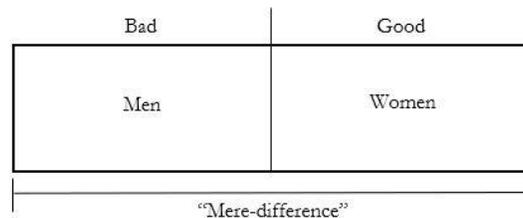
Their reasoning goes something like this. Certain sets of what we standardly treat as mere-differences are highly variable in their effect on well-being. Naturally, then, some of these particular differences are not-as-good-as others within the same set. If some difference is such that it consistently makes one worse-off than others within that set, then that such difference is not neutral with regard to well-being.

[One may argue] that these factors cause substantial variances in wellbeing. For example, one may argue that women are substantially better off than men because, e.g., they live longer and are able to give birth. Let us assume that men are in fact substantially worse off even in a just society. Given this assumption, disability could accurately be described as a mere-difference even if people with a disability in a just society are substantially worse off than people without a disability. This result is troubling. If maleness makes people substantially worse off, one should deny that maleness is a mere-difference rather than claim that because disability is – in (at least) one important respect – like maleness, disability is a mere-difference as well. Alternatively, one could, of course, claim that maleness has worse effects on wellbeing than having a disability and that disability is, in fact, a mere-difference.⁶³

⁶² Andrić & Wündisch (2015:11).

⁶³ Andrić & Wündisch (2015:11).

In other words, they seem to be saying, within a given kind of difference—say, differences in sex and gender—it may be the case that, among the particulars of that kind—such as *male*, and *female*—one type of particular instance of difference is such that it consistently makes you better off than another, even in a just society. When this occurs, the not-as-good particular—in this case, maleness—is not itself a mere-difference. If it were true that differences of sex and gender are kinds of mere-differences, it would also be true that the difference of maleness was one such difference that was bad for you and your well-being. I imagine this example as charting something like this:



Assuming a similar structure regarding differences of (dis)ability in a just society, and assuming that the relationship between *disability* and *ability* is analogous to their proposed relationship between *maleness* and *femaleness*, A&W argue that mere-difference defenders can do one of two things. They can insist that disability is a mere-difference, “even if people with a disability...are substantially worse off than people without a disability,” or they can argue that there is something about maleness such that it “has worse effects on wellbeing than having a disability.” Both options strike A&W as problematic.⁶⁴

The point they seem to be attempting to make is this: perhaps it is indeed the case that differences in sex and gender, and differences in ability-impacting features are analogous. If they are, then perhaps, in light of the revelation that maleness (and disability) are not-as-good-as other ways (in their respective sets) to be, we ought to re-examine whether these, and other features we standardly treat as mere-differences are actually mere-differences after all. The weight of their argument seems

⁶⁴ Andrić & Wündisch (2015:11).

to rest on the claim that “if we standardly but incorrectly treat features as mere-difference, reliance on these incorrect judgments only perpetuates the problem.”⁶⁵

Reframing neutrality

In one very important respect, Andrić & Wünderlich are correct. If it is the case that we are mistaken about these other—seemingly obvious—cases of mere-difference, then treating them as though they are analogous with disability will only serve to further confuse the problem at hand. Indeed, there is much philosophical agreement about how important it is that our theories be built upon good epistemological foundations, so this is certainly not a concern without precedent.

If it is the case that we are, or could be, mistaken about some of the things that we think of as being mere-differences—such as sex or gender—then we ought to seek to correct these mistakes. However, even if it is the case that we are mistaken about some—or, even, all—of the things that we typically think of as being mere-differences, this tells us nothing about whether disability, itself, is this kind of difference; all it tells us is that our analogies are not helpful in this very important way.

A&W seek to discredit the mere-difference view of disability by suggesting that there is an important distinction between one general kind of difference—such as differences of sex and gender—and one particular type of that kind of difference—such as being male. They argue that if being male is not-as-good-as being female, then it must be the case that being male ought to be understood as being something that is not neutral; it ought, rather, to be understood as having a negative effect on well-being.

This is somewhat confusing. It seems similar to arguing that if being left-handed is not-as-good-as being right-handed—because being left-handed makes certain tasks more difficult to perform in a world dominated by right-handed people and products, and because being left-handed has been

⁶⁵ Andrić & Wünderlich (2015:11).

linked to an increased risk of mental health problems⁶⁶ and breast cancer,⁶⁷ and has been connected to not-as-good performance in school settings⁶⁸—then being left-handed is, therefore, a non-neutral difference which necessarily has a detrimental effect on well-being. But, this sort of thinking seems to be a mistake. We still seem to have some pretty good reasons to think that it is not the case that being left handed necessarily has a negative effect on well-being. It may be problematic to A&W's argument to point out that, even given the previously stated risks of being left-handed, there is nothing ethically problematic with allowing your child to become, or remain, left-handed.

But, perhaps A&W intend to say something different. Perhaps they are making the claim that there is an important distinction between differences in ability (as a *kind* of difference), and the instances of that kind of difference (all the *particular* disabilities). But, if this is meant as an objection against the mere-difference view, it is not quite clear how to take it. It is, after all, perfectly compatible with the mere-difference view that some particular instances of disability may themselves be possibly, or even necessarily harmful to our well-being. The mere-difference view is a view about disability as a kind, not a view about each of its disparate particulars; the view makes no claim of comprehensive, perfect neutrality.

This objection also seems to mischaracterize what it is that Barnes, specifically, and the mere-difference view, generally, are committed to. The question is not whether being disabled, as one particular way to be, is analogous to being male, as another particular way to be. Indeed, this suggestion seems to me a bit strange; there is clearly not just one particular way to be disabled, just as there is not just one particular way to be male. The actual question that the mere-difference view asks us to consider is whether disability, as an effect of *one kind* of difference-making feature, is analogous to sex

⁶⁶ Jadon Webb, et al., "Left-Handedness Among a Community Sample of Psychiatric Outpatients Suffering From Mood and Psychotic Disorders," *SAGE Open*, 3(4), (2013).

⁶⁷ L. Fritschi, et al., "Left-handedness and risk of breast cancer," *British Journal of Cancer*, 97(5), (2007).

⁶⁸ David W. Johnston, et al., "Nature's Experiment? Handedness and Early Childhood Development," *Demography*, 46(2), (2009).

and gender, as the effects of *other kinds* of difference-making features. In other words, it is entirely compatible with the mere-difference view that any particular instance of a kind of mere-difference could be such that it potentially, or even necessarily, has a less-than-perfectly-neutral effect on a person's well-being, even while the broader category to which that particular difference belongs does not necessitate this same sort of impact.

If, for example, it was the case that being male was necessarily, or even probably, not-as-good-as being not-male, it could easily still be the case that sex and gender are the kinds of differences that do not necessarily exercise a negative force on well-being, as being male is just one of many ways to experience this kind of difference. There seems to be an important distinction between the idea that being male is—or could be—one way to be which is not-as-good-as being not-male, and the idea that maleness is something that is bad-for-you.

Perhaps a part of the confusion, here, arises from what I have referred to as A&W's conception of perfect neutrality; that "rather precise" claim that they interpret the mere-difference view as making. It seems to be relevant to consider whether this is the correct way to think about neutrality as it relates to kinds of differences. If differences in sex and gender are themselves perfectly-neutral kinds of differences, then there does seem to be some puzzle to the fact that (or even the possibility that) some such particular differences, such as maleness, are not (or might not be) neutral in their necessary effect on well-being.

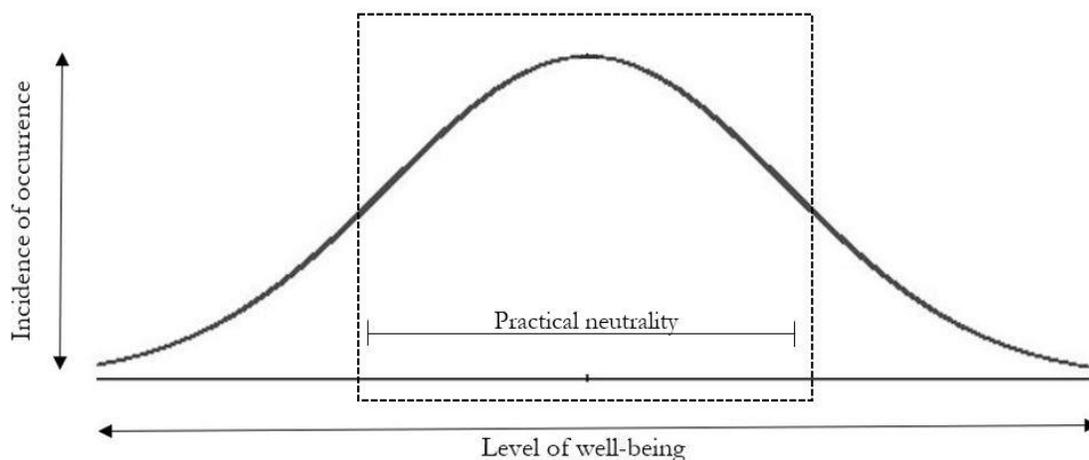
If perfect-neutrality is correct, and if we are to interpret it as I believe A&W intend for us to interpret it, then those particular differences which are not themselves perfectly neutral would likely not serve us well as analogous examples of mere-difference. But, unless it is the case that A&W are intending to suggest that *all* employed analogous examples are mistaken in this critical way, it is unclear how much force this particular objection actually has. If we find that one supposed mere-difference is not, actually, then we shall simply stop employing it as an analogy and utilize others in our theorizing.

If, however, A&W are meaning to suggest that the very category of mere-difference, itself, is one with little practical utility, a different response is in order.

If the concern is that *perfect neutrality* seems implausible, and so too, then, does mere-difference, then perhaps a clarification is in order. A mere-difference defender needn't be committed to the claim of perfect neutrality; either of disability *as a kind*, or of its disparate particulars, types, or occurrences. Neither does the mere-difference view necessitate thinking of well-being in the binary way that I understand A&W to be thinking of it.

Consider the empirical fact that, when social scientists study things like well-being, a common research approach is to collect and examine some set of quantitative data. One common way to present this data is in chart form. Often, this type of research produces findings that plot in a bell-curve formation.

Given that this is a not-unreasonable way to visualize well-being, a mere-difference defender can easily think of neutrality in this same, empirically evidenced sort of way. As such, the mere-difference view is compatible with what I think of and refer to as a model of Practical Neutrality.



This model may be understood in the following way. If a kind of difference is such that it does not necessarily have either a positive or negative effect on well-being, then it is a mere-difference. The direct impact of the presence of such a difference will likely be measurable in the above “bell-curve” type of way. Some may be much better or worse off, in virtue of their possession of such a difference, but the overall impact of that kind of difference, for most people, will be such that they experience a difference in well-being that is within a standard deviation. This model, Practical Neutrality, is entirely compatible with the mere-difference view of disability.

On this model, the mere-difference view can be understood as being committed to the following statements. Disability, as a kind, is neutral in terms of well-being. As with other instances of kinds of mere-difference, it does not necessarily have either a positive or negative effect on well-being. Disability is the kind of thing that is no more or less likely to have a direct negative effect on a person’s lived experiences (their well-being) than other kinds of mere-differences. It may be the case that there are some particular disabilities (or some particular experiences of being disabled) that are such that they necessarily directly have either a positive or negative effect on well-being, either temporarily or permanently, and either constantly or intermittently.

Admittedly, this proposal of practical neutrality may strike some as a wrong way to think about disability specifically, or even neutrality in general. One might be inclined to insist that if a particular instance of difference consistently makes a person worse off, it cannot be the case that that particular instance is itself a mere-difference. In response, two brief comments are in order. First, it is a mistake to think that commitment to the mere-difference view necessitates denying this. Second, it is a mistake to think that particular instances of bad-difference necessarily exert the same force as the kind to which they belong.

To put it another way, bees are a kind of thing which are not generally harmful to people’s well-being. It would be a mistake to think that because any particular bee can consistently make some

person (or some set of people) worse off, that bees are a kind of thing which are, therefore, necessarily harmful to people's well-being.

Summary

The mere-difference view holds that, as a feature of the body, the presence of disability does not necessarily result in either a positive or negative change in individual well-being. As such, the view has certain implications which seem to be counter-intuitive, and which strike some as unacceptable. Barnes explains this discrepancy by way of additional ethical principles, such as those of non-interference, but this is not without controversy. Disability, as a kind, cannot be taken to be a harm simply by virtue of the fact that some particular instances of disability are. Similarly, disability, as a kind, cannot be taken to be a harm simply by virtue of the fact that its particulars are not necessarily each perfectly neutral in their effects. As such, the objections reviewed here to Barnes's arguments are not successful in their attempts to discredit the view.

Chapter 3: Final Thoughts

Charges of unacceptable—or, improbable—implications are not the only challenges against the mere-difference view. Some may worry that the scope of the view is too broad; so much so that it becomes impractical or irrelevant to the process of active theorizing.⁶⁹ Others worry that the scope of Barnes's account is too narrow; that by focusing on physical disability alone any conclusions we reach run the risk of being irrelevant to the consideration of other types of disabilities.

In this chapter, I will touch on some of these additional concerns regarding Barnes's account of disability as a kind, and some regarding the mere-difference view in general. I will also discuss the fact that the bad-difference view is not typically either argued for or defended, but that it is rather assumed to be true. In response to this, I propose considering the bad-difference view in terms of its own unacceptable implications. I will then offer my conclusion, that disability is a mere-difference, and that bad-difference defenders are making a mistake in their discounting of it.

Disability, as a Kind

Barnes is clear in her intent to build and consider an account of disability as a kind; specifically, as a kind with both physical and social components. While there is much evidence that we regularly consider disability to be *some kind* of difference-making feature, it seems that deliberately theorizing about disability as a kind can be particularly challenging. After all, there is no way to theorize about disability without calling to mind, and employing as examples, particular disabilities, either paradigm cases—such as achondroplasia, deafness, or Down syndrome—or else non-paradigmatic ones—often gestured at much more broadly, such as *extremely painful* disabilities, or *severely debilitating* disabilities. Indeed, it would clearly be a mistake to suggest that we attempt to theorize about disability *without*

⁶⁹ Andrić & Wünderlich (2015).

considering particular disabilities. It also seems to be a mistake, however, to attempt to theorize about disability as a kind, while *only* thinking in terms of particulars and not at all about the kind to which those particulars belong.

The suggestion that it is a mistake to theorize about *a kind* while considering only some small set of *particulars* is not without precedent. If, for some reason, we wanted to theorize about chairs, *as a kind*, it would do us no good to focus our thoughts only on folding chairs, or wing back chairs, or office chairs. If we wanted to explore the connection between chairs, *as a kind*, and our well-being, it would do us no good to focus only on those chairs which positively impact our well-being (such as, perhaps, chairs that are ergonomically perfect), or on those which negatively impact our well-being (such as, perhaps, chairs with protruding springs), or even on those chairs with which we are collectively most familiar (whatever sort of chair that happens to be).

If we want to theorize about the connection between chairs—as an at least somewhat simple kind—and our well-being, then we need to do our best to ensure that we are actually theorizing about chairs, *as a kind*. It would be a mistake to think that it follows from the fact that there are chairs with broken springs—which may be harmful to our well-being—that chairs are something that are bad for us. It would also be a mistake to think that it follows from the fact that there are ergonomic chairs—which may be beneficial to our well-being—that chairs are something that are good for us. Instead, if we want to develop good theories about chairs, as a kind, we need to ensure that we indeed build such theories on our considerations of chairs, *as a kind*.

Similarly, with regard to disability *as a kind*, even if it is the case that the physical components of particular disabilities are indeed the sorts of thing which necessarily negatively impact well-being—either in the world in which we actually live (detrimental-difference), or also in any other world we might imagine (bad-difference)—it does not follow that disability, *as a kind*, is something that necessarily negatively impacts well-being. Even if it is the case that there are disabilities which

consistently positively impact well-being, it does not follow that disability, *as a kind*, is something that necessarily positively impacts well-being.

As with our thinking about chairs, considering some number of particulars is reasonably considered as necessary when theorizing about disability. But, considering *only* some number of particular physical disabilities may not be sufficient when theorizing about disability, *as a kind*, let alone *as a moderately-socially-constructed, complex kind*. To develop good theories of disability, *as a kind*, we need to ensure that we do not inappropriately narrow our scope to consider only those particular disabilities with which we are collectively the most familiar, most comfortable, or most uncomfortable—whatever it is that those such particular disabilities happen to actually be.

Sub-categorization: Physical disability

One challenge for Barnes's presentation of the mere-difference view comes from the question of whether our theorizing about disability might be different, were we to not limit the scope of our consideration to *physical* disability, alone. The worry might be that to do so is to stack the deck in favor of the view. Another worry may be that such a focus makes it a bit easier for the mere-difference defender to argue in favor of using a solidarity-type social construction. On my view and understanding of disability as a kind, and on my view and understanding of *physical* disability as a sub-kind, however, this is not actually such a big worry.

It is true that the disability prefix “physical” is generally meant to pick out a certain, distinct, type of disability, and that each of the alternate prefixes “intellectual,” “cognitive,” “psychological,” “sensorial,” “social,” and “learning” are generally meant to pick out other, equally distinct types of disabilities. These terms do this because they are able to describe something about the set of disabilities to which they refer that is indeed distinct from other types, they point to those disabilities which have the properties of being *intellectual, cognitive, psychological, sensorial, social, or learning* in nature. That is, they

each refer to an easily unified sub-kind. The clear distinction between these sub-types makes it a relatively simple task to identify and articulate the unifying features of each of these sets, especially when compared to the more daunting task of identifying and articulating the unifying feature of the much broader and nearly entirely unqualified *kind* to which the broader, simpler term “disability” refers. So, the worry might go, perhaps Barnes has made it too easy for her argument, by focusing on *physical* disability alone.

But, it seems to me that—unless it happens to be the case that substance dualism is correct—all disabilities could be described as physical disabilities; even if it is not the case that we typically think or talk about them in this way. If substance dualism is correct—if our bodies are one thing, and our minds are something entirely different—then it could be the case that, for example, a cognitive disability was a non-physical disability. But if it is instead the case that our minds are connected to our bodies to such an extent that changes to our bodies influence changes in our minds—and there is much evidence that this is correct—then cognitive disabilities are reducible to physical factors. So, too, for *intellectual, psychological, sensorial, social, and learning* disabilities, and any other groups I may have missed. In other words, on my view, all disabilities are ultimately reducible to *physical* disability-making features, and, so, all disabilities might be described as *physical* disabilities.

Regarding scope

One sort of concern raised regarding the mere-difference view of disability relates to its scope. One such worry is that the scope of the mere-difference view is such that it ultimately becomes irrelevant with regard to particular disabilities. Andrić & Wündisch argue that, even in a perfectly just society—one without ableism or other forms of social harm—the scope of the mere-difference view is such that it simply cannot hold that disability is a neutral thing.

One obvious difficulty of the mere-difference view relates to its scope. A number of disabilities often are accompanied by chronic pain and a reduced lifespan (paraplegia,

tetraplegia, Down syndrome, mental disabilities, rheumatic diseases, asthma). Without relying on intuitions about disability, we can assess pain and early death as bad. Therefore, it is *prima facie* not plausible that the mere-difference view can apply to these disabilities.⁷⁰

The thinking seems to be that if disability is a kind of thing that is neutral in terms of its effect on well-being—if it is a mere-difference—then each of the particulars of this kind—all the disparate ways to be disabled—would be similarly neutral in terms of their effect on well-being. There are some effects of some disabilities, which are clearly not neutral in their effect on well-being. So, disability cannot be a kind of mere-difference. A&W suggest that defenders of the mere-difference view can reply by making one of the following three claims.

1. They could say that such disabilities bring a person at least as much good as they do harm.

But, A&W argue, if these goods are similar to “the mental and emotional strength derived from pain,” etc., then these goods “will, at least in part, be moral rather than prudential goods and thus not contribute to the overall well-being of a person but rather make that person morally good.”⁷¹

2. They could claim that “theories of wellbeing that support [the commonsense intuition that pain and early death are bad] are wrong.”⁷²

This, they continue, doesn’t seem to make much sense. Such judgments—that pain and early death are harmful to our well-being—seem to be clearly correct.

3. “[A]dvocates of the mere-difference view could attempt to abstract from pain and death and insist that their view is only about disabilities *per se*.”⁷³

This strikes A&W as highly problematic because this “would render the mere-difference view practically irrelevant to the case of some significant disabilities. For, in real life, some significant

⁷⁰ Andrić & Wündisch (2015:9).

⁷¹ Andrić & Wündisch (2015:10).

⁷² Andrić & Wündisch (2015:10).

⁷³ Andrić & Wündisch (2015:10).

disabilities cause pain and early death.”⁷⁴ So, they conclude,

The scope of the view has to be further restricted with respect to the capacity of the relevant society to accommodate people with disabilities. Simply put, prior to the invention of the wheel, the mere-difference view was significantly less plausible with respect to certain mobility impairments. Similarly, today’s technological advances in the health care sector strongly influence society’s capacity to accommodate people with disabilities. If we assume that “ought” implies “can,” this has a direct influence on the concept of the just society and therefore on the scope of the mere-difference view. The view is significantly more plausible with the backdrop of a highly advanced society. Accordingly, the scope of the view must be restricted to a certain era. In the same way – but motivated by considerations of cost-efficiency rather than the principle of “ought” implies “can” – the view is less plausible in the context of a society with comparatively many people with different kinds of disabilities that require different kinds of individually expensive treatments. People with diverse disabilities who require diverse kinds of assistance from nondisabled people are less likely to have a claim to that assistance the fewer nondisabled people there are.⁷⁵

In other words, because there are some disabilities, the symptoms or difficulties of which cannot be mitigated or alleviated by medicine or technology, there are disabilities which are not mere-difference. So, the only disabilities which might be mere-differences are those whose symptoms or difficulties are mitigated or alleviated by medicine or technology. Therefore, according to A&W, in order for a mere-difference view of disability to become correct, it would have to reduce its scope so as to exclude those disabilities which are harmful to well-being. Greg Bognar appears to take a similar position, suggesting that the term “mere-difference” perhaps might be meant to only refer to particulars which are not “disabilities.”

One problem is that those who make the claim that disability is mere difference almost never add any qualifications. They do not seem to mean, for instance, that all disabilities are mere differences except for sufficiently severe cases of those disabilities—such that, for instance, short-sightedness could be considered a mere difference but complete blindness should count as a disability. Neither do they classify conditions according to whether they are disabilities or mere differences—such that, for instance, paraplegia could be considered a mere difference but multiple sclerosis that causes the same limitation should count as a disability.⁷⁶

⁷⁴ Andrić & Wündisch (2015:10).

⁷⁵ Andrić & Wündisch (2015:10).

⁷⁶ Bognar (2016:46).

Bognar is correct in his understanding of what it is that the mere-difference view does not claim; a commitment to a mere-difference view does not necessitate a commitment to the claim that all particular disabilities are themselves mere-differences. It is perfectly compatible with the mere-difference view that some disabilities may be—or are—harmful to a person’s well-being.

To explain this, one needn’t look any further than A&W’s own suggestion regarding the need to properly consider the *scope* of the view. The mere-difference view makes a claim about disability *as a kind*. That claim is that “disability” is a complex *kind* of thing, the particulars of which are *not necessarily* harmful (or beneficial) to well-being. To interpret this as being equivalent to the claim that the particulars of disability are *necessarily not* harmful (or beneficial) is a mistake.

An Account of Occasional Harm by Mere-Difference

Some particular disabilities are such that they have one or more particular disability-making features, the presence of which results in a—possibly necessary—negative effect on the well-being of disabled people themselves. Mere-difference views of disability can accommodate this, however, because mere-difference views of disability are views about disability as a kind, not views about particular disabilities. This is a subtle, but very important distinction.

To revisit a previously employed example, it is worth considering that bees are a kind of thing, the sting of which directly has an inarguably negative effect—anaphylaxis—on the well-being of some people. But it is not the case that all bee stings have this inarguably negative effect, or that all bee stings on people have any such significantly negative effect. It is also not the case that all bees sting people; not all bees cause harm. So, it cannot be taken to follow from examples of anaphylaxis that bees, as a kind, are bad, or are bad for us. Indeed, there are strong reasons to believe that bees, as a kind, are neutral—arguably, good—with regard to the well-being of people, in general.

Similarly, being gay is a kind of thing which indirectly (via homophobia, etc.) has an inarguably negative effect on the well-being of some people. But it is not the case that this negative effect is necessarily the result of *being gay*; it is only one possible outcome of *being gay in this world*. So, it clearly cannot be taken to follow from the fact that being gay is bad for some people, that *being gay*, as one kind of a way to be, *is bad*. We have good reason to believe that being gay, itself, is neutral with regard to the well-being of people, and that this is true even if it is the case that some people judge gayness otherwise.

In the same way, disability is a kind of thing which (directly or indirectly) has an inarguably negative effect on the well-being of some people. But it does not follow from this that disability, as a kind, necessarily negatively impacts people's well-being. Indeed, there are good reasons to believe that disability, itself and *as a kind*, is neutral with regard to the well-being of people.

To use a real-world example, given that being paraplegic is one way of having a disabled body, it is plausible that being paraplegic necessarily negatively impacts the well-being of some number of people. Thinking only in terms of autonomy, we have good reason to believe that paraplegia has a clear, and probably direct, negative impact on the lives of many paraplegic people in the world. Even if it were the case that all paraplegic people in the world are negatively impacted in this particular way, it would still be a mistake to generalize from this to the conclusion that disability, as a kind, necessarily has a negative effect on well-being.

Given that, often, generalizing from the specific to the general is unproblematic, it may be difficult to understand what it is that is going wrong in the above scenarios. I propose that the error is, simply, that the properties of these considered particulars—the property of being a possible or necessary harm to well-being—is not a property that is common to the broader kind to which they belong. This sort of mistake would be like attempting to generalize from the fact that all healthy pine trees have needles to the conclusion that all healthy trees have needles, or from the fact that all healthy

and mature fruit trees bear fruit to the conclusion that all trees bear fruit. The properties of these particulars are simply not properties of the broader kind.

So, even if it is the case—and it may well be—that certain particular disabilities are such that they are necessarily harmful to well-being, it simply would not follow that disability—a complex and broad category of thing—is such that it necessarily negatively impacts people’s well-being. Disability, as a kind, simply does not have this property. The strongest claim we can make, based on instances of some number of particulars, is that disability is a kind of thing, the particulars of which *may* be harmful to well-being. The mere-difference view does not deny this.

Regarding the Force of the Unacceptable Implications Objection

As a set of objections, UI is meant, in the second premise, to represent ethical truth. In the primary form being considered in this paper, it is meant to communicate that it is a fact that it is impermissible to cause disability, and that it is a fact that it is permissible to remove it. The problem is, however, that without further qualification, these premises are too broad. There is—or there ought to be—much agreement that if the act of causing a change in the (dis)ability status of another person is such that it violates principles of non-interference, then such an act is not necessarily permissible. At the same time, if disability is a mere-difference, and if the act of causing a change in the (dis)ability status of another person is not such that it violates any principle of non-interference, then it might turn out to be the case that such an act is not necessarily impermissible. This is to say that the “facts” presented in UI’s second premise might not be facts after all. One way to evaluate the truth status of these claims, then, is to theorize about cases in which interference is not a factor.

One common way to do this is to theorize about the permissibility of causing such a change prior to the point of ethical person-hood, whatever that point may be. For the purposes of this debate, it is reasonable to consider that cases in which this change is initiated prior to some point in the

gestation process are such that they would not violate these principles, such as in cases of pre-implantation embryo selection. With regard to such a scenario, a formalized UI argument might go like this:

- i. If disability is a mere-difference, then selecting for deafness is permissible.
- ii. Selecting for deafness is not permissible.
- iii. So, disability is not a mere-difference.

Assuming the permissibility of selecting for deafness is an implication of the mere-difference view—which it is—then, if this second premise is correct, the conclusion must hold, and disability must not be a mere-difference. But, the problem is that it is *not obvious* that this second premise is correct, and if it is not correct, then the conclusion does not hold. If the conclusion does not hold, then the argument has failed in its attempt to demonstrate that the mere-difference view is incorrect.

The second premise of this UI argument—and of UI, more generally—reflects judgments regarding the permissibility status of causing a change in the disability status of another (present or prospective) person. The problem is, that this ethical position seems to be based on the understanding of disability—in this case, deafness—as something that necessarily negatively impacts well-being.

If deafness is necessarily harmful to well-being, then selecting for deafness may be ethically impermissible. But, it is not at all clear that *being deaf* is a form of bodily difference which necessarily negatively affects well-being. There is much evidence that any given d/Deaf person may experience a level of well-being that is equal to, or greater than, that of any given hearing person. That this may strike the mere-difference objector as incorrect does not make it so.

It is clear, even to the mere-difference defender, that deafness is something which *may* negatively affect well-being. But it is also clear, to the mere-difference defender, that the occurrence of this possibility—of deafness acting as a harm—relies heavily on the external social and environmental circumstances, or context. In other words, it is clear, to the mere-difference defender, that this second premise does not reflect a necessary ethical truth.

Let's assume that it is true—and it seems to be the case that it is—that the second premise of UI accurately represents the judgments made by some set of people regarding the permissibility of such actions. It seems to be the case, then, that the most UI can tell us is something (perhaps something significant) about the judgments that this set of people make regarding the moral permissibility of affecting the (dis)ability status of others. That is, UI cannot, and does not, itself, tell us anything about whether these judgments reflect ethical truths. It tells us nothing about what necessary effect disability, itself and as a kind, actually has on a person's well-being. That is, no matter how strongly UI may be formulated, it remains an open question as to whether the judgments that inform UI represent ethical truth. It remains an open question as to what sort of effect disability, as a kind, truly and necessarily has on the well-being of people with disabilities.

Regarding the Necessary Effect of Disability as a Kind

As with most open questions, it seems that the best way for us to gain insight into this matter is to gather as much information as we can from those who are experts on the matter. Those who, together, know all there is to know about disability; those who know about being d/Disabled, about what-its-like to have a disability, about what-it-feels-like to have a disability, and so on. It is reasonable to think that we, as philosophers, would be interested in gaining such insight into what effect disability, itself and as a kind, does or does not have—directly or indirectly—on well-being. In fact, it seems to be the case that having such insight from such experts would be *necessary* in order for us to have good reasons to believe that any particular intuitions are such that they reflect reality.

Given the complexity of disability—the physical and social components of it, and the many disparate particulars—the variety and number of experts that could be consulted is not insignificant. I imagine that we ought to—if we desire to be fully informed—consult with a large number and variety of experts, who then collectively represent as many aspects of as many particular disabilities as

possible. This group of experts would probably include medical doctors, social scientists, advocates, and allies. This group of experts would certainly include disabled people themselves, as they are the only group of people who have *privileged epistemic access* to the knowledge of what-it's-like *to be d/Disabled*.

If a complete, or even comprehensively broad, survey of all the different types of experts on all the different types of disability is impossible, or even impractical, then consulting with a diverse set of disabled people—a group of people who are themselves experts regarding the most relevant parts of disability; who have this privileged knowledge about what-its-like—may be our next-best option for gaining such important insight. The knowledge of life-with-disability is such that it is essential for developing a reasonably approximately true understanding of disability, especially with regard to the question of its actual impact on individual well-being.

If our expert testimony comes from disabled people themselves, or from the social scientific research involving disabled people themselves, then the answer to the otherwise open question may prove to be that disability is not a kind of thing which, itself, either necessarily positively or necessarily negatively impacts well-being. It may indeed prove to be the case that if any measurable necessary differences in well-being exist, they are such that they are only indirectly related to disability, through the filter of the external social world.

Returning to the question at hand, the position that it is impermissible to cause—or, select for—deafness does not seem to be based on a complete set of facts. Indeed, it seems to disregard an important set of truths. The first of these truths is that when Deaf parents have children who are themselves deaf, these children are celebrated within the Deaf community. Aside from the effects of ableism—often in the form of audism and oralism—these children have no linguistic or social disadvantage, as is clearly—at least sometimes—the case for deaf children of hearing parents, or deaf children who do not have a meaningful connection to the Deaf community. These children—the Deaf-of-Deaf—are generally able to lead fairly typical childhoods because they are uniquely positioned

to be fully immersed in their language and culture from birth, and as such are very able to have rather typical childhoods and to grow into rather typical adults.

It is difficult, then, for the mere-difference defender to see why we should commit ourselves to the claim that it is impermissible for a prospective Deaf parent to select for deafness. To hold the position that such selection would be impermissible seems to be a mistake, when to be Deaf-of-Deaf is to be celebrated and to not at all be necessarily harmed by deafness.

If, given this context, a mere-difference objector insists that it is impermissible to select for deafness, then the mere-difference defender may be able to reasonably infer that it is because they are committed to a view by which it is necessarily better to be a hearing person than to be a deaf person. Unsurprisingly, this is a position which mere-difference defenders, and many d/Deaf people themselves, summarily reject.

The precise question that the mere-difference view forces us to ask is: if such a permissibility judgment is *not* based on ableist ideas, what other reason—outside of non-interference principles, etc.—might there be? It seems to be the case, despite protests to the contrary, that answering this question is not a burden for mere-difference defenders to bear. It seems, rather, that if the bad-difference view of disability is correct, then a bad-difference defender ought to be able to support their argument in some way that clearly and unambiguously extends beyond the presupposition that to be a hearing person is to necessarily have a higher level of well-being than a deaf person.

In short, the available testimony provided by people living with disability is such that we have some reason to believe that it is *not necessarily* the case that disability is the kind of thing which negatively impacts well-being. Such evidence also, of course, tells us that disability is *not necessarily* the kind of thing which positively impacts well-being. If it is the case that disability is neither necessarily good, nor necessarily bad, then it can only be the case that disability as a kind is, itself, neutral with regard to well-being. That is, it seems to be the case that the best derivable conclusion, from the empirical

evidence available to us, is that disability, as a kind, is neither necessarily harmful or necessarily beneficial to well-being. It is mere-difference.

An Argument Against Bad-Difference

Barnes seems to be correct that, at least typically, versions of the bad-difference view of disability are not argued for, but are rather presumed, assumed, or presupposed. This may seem reasonable to some. After all, it is no hard task to think of ways and reasons by which particular disabilities could be, would be, or perhaps even are, harmful to at least some individuals. It is reasonable, for example, for a sighted person to prefer to be sighted over being or becoming a blind person, because having this difference would constitute a great harm to them; it may indeed be both obvious and correct to claim that being blind would be harmful to their well-being. It would not be correct, however, for this preference to be taken as legitimately leading to the conclusion that being blind is, therefore, a difference which necessarily results in a person's level of well-being being lower than the well-being of a typically sighted person; that being blind is a necessary harm. If this is the reasoning that motivates the sense of reasonableness of presupposing bad-difference as a default-type of position, it is not without critique.

By the same logic, it is reasonable for a blind person to prefer to be blind over being or becoming sighted. This person may consider it obvious that their blindness does not, itself, necessarily negatively affect their well-being, and so that, therefore, being blind is not a necessary harm. When either view can be rationally held, there seems to be a good philosophical reason to not presuppose either.

If disability is a thing which is good, then it ought to be able to be demonstrated to be good, without employing such a presupposition. Similarly, if disability is a thing which is bad, then it ought

to be able to be demonstrated as being bad, without employing any such presupposition. It seems a bit of a puzzle, then, that this might not be typically done.

If it is the case that UI is an effective tool by which to demonstrate that unacceptable implications follow from a particular view of disability, then it seems reasonable to consider it as an effective tool by which to evaluate any such view, not just mere-difference. Consider the following formulations of implications which might follow from the bad-difference view, considered in conjunction to various ethical theories:

1. If disability is a bad-difference, and if it is within our means to remove or prevent disability, then it is impermissible for us not to prevent or remove disability.
 - ii. It is permissible to not prevent or remove disability in others, even when it is within our means to do so.
 - iii. So, disability is not a bad-difference.

2. If disability is a bad-difference, then it is in society's best interest to attempt to minimize occurrences of disability.
 - ii. It is not in society's best interest to minimize occurrences of disability.
 - iii. So, disability is not a bad-difference.

3. If disability is a bad-difference, then it is permissible, laudable even, to make an effort to rid the world of instances of disability.
 - ii. It is not permissible to make an effort to rid the world of instances of disability.
 - iii. So, disability is not a bad-difference.

Many, if not all, of these suggested implications may strike us as unrealistic, or otherwise deeply problematic, as well they should. They all, however, represent moral judgments that can—and have—been made regarding disability. People with disabilities have been institutionalized, they have been forcibly sterilized, they have been sent to gas chambers. Certain disabilities are routinely screened for, and selected against, during the process of fetal genetic screenings. With regard to this last point—and setting aside any and all debate regarding the permissibility of terminating pregnancy—a mere-difference defender has no problem acknowledging that sometimes such an act may be ethically

unproblematic. It may be reasonable—morally right, even—to terminate a pregnancy in which the fetus has a disability-making feature which would result in an unquestionably harmful effect on the well-being of that future child; such as one which indicates that there is a reasonable likelihood that the child would endure a short and incredibly painful existence by virtue of the presence of the disability-making feature in question. Other times, however, ethical questions easily arise, especially when such actions are taken on a broad scale, or when the disability in question may not be one which *necessarily* negatively effects well-being, considerations of ableism aside.

Take, for example, Down syndrome, which, in at least 95% of cases, results from an error in cell duplication which is responsible for the disability-making feature of the presence of an extra chromosome in every cell of the body.⁷⁷ People with Down syndrome, therefore, are among a unique group of disabled people: if their disability-making feature were to be removed, they would altogether cease to exist.

Now, if it were the case that a bad-difference view of disability is correct—that is, if disability is the kind of thing which necessarily negatively impacts well-being in any and all particular instances of disability—then there ought to be nothing at all problematic with prospective parents selecting against Down syndrome. Even if the mere-difference view of disability is correct, it may be accepted to be the case that any particular instance of a prospective parent making such a decision is ethically permissible.

But, what if this permissible act is multiplied? What if an entire social system were to decide that it is best to consistently select against this disability? What if prospective people (that is, what if fetuses) with Down syndrome were systematically eliminated as the result of the combination of

⁷⁷ National Down Syndrome Society (2018).

available genetic screening and the presupposition that disability, generally (or Down syndrome, specifically) is something that is necessarily bad, or harmful to a person's well-being?

On a strong bad-difference view, if disability is a kind of bad-difference, then Down syndrome in particular is a bad-difference, and it may be difficult to articulate ethical grounds upon which to find this scenario problematic. On a strong mere-difference view, if disability is a kind of mere-difference, however, and if Down syndrome in particular is a mere-difference, then it may be difficult to articulate ethical grounds upon which to find this scenario *un*problematic.

Consider this another way. Many moral theories hold that preventing, or correcting, "bad" things is good to do. So, if disability is a kind of thing that is *bad*, or is *bad for us*, then these theories tell us that preventing, or removing disability is a good thing to do. Many moral theories hold that doing the right thing (the good thing, or the best thing) is always the right thing to do. So, on such a view, if disability is necessarily bad, then preventing or removing disability is necessarily a good thing to do. But, again, it is not clear that this is correct.

- i. If disability is a kind of thing which is necessarily bad (if it is a bad-difference) then preventing or removing disability is good to do.
- ii. So, if disability is a bad-difference, then not-preventing or not-removing disability is not-good.
- iii. If such inaction is not-good then it can only either be morally neutral, or morally impermissible.
- iv. If a bad-difference view is correct (if disability is necessarily bad) then not-acting is not morally neutral.
- v. So, if a bad-difference view is correct, then not-preventing or not-removing disability is morally impermissible.
- vi. So, if a bad-difference view is correct, then it is morally necessary to remove or prevent disability.
- vii. If it is morally necessary to prevent or remove instances of disability—if removing or preventing disability is, *necessarily*, the right thing to do—then there is no ethical problem with an entire social system moving to remove or prevent any number of particular instances of disability.

- viii. But, there is an ethical problem with an entire social system systematically moving to remove or prevent at least some particular instances of disability.
- ix. So, it is not morally *necessary* to prevent or remove instances of disability.
- x. So, a bad-difference view of disability is not correct.

This may seem to be a hyper theorized, or unrealistically dramatic interpretation of the consequences of holding a bad-difference view. But the fact of the matter is, it is neither. These consequences, of this view, have played out in our past. These consequences, of this view, are being played out right now. Genetic screening for Down syndrome, for example, exists, and is routinely utilized. In August, 2017, CBS news reported the following:

Since prenatal screening tests were introduced in Iceland in the early 2000s, the vast majority of women -- close to 100 percent -- who received a positive test for Down syndrome terminated their pregnancy.

According to the most recent data available, the United States has an estimated termination rate for Down syndrome of 67 percent (1995-2011); in France it's 77 percent (2015); and Denmark, 98 percent (2015).⁷⁸

Reaction to this is mixed. Some, those who view Down syndrome as a bad, but preventable, difference may applaud the example of Iceland as a success story. Others, who view Down syndrome as either a neutral, or even good thing, may decry the Iceland example as a story of genocide.

It seems difficult, for the mere-difference defender, to see how it could be the case that such an extreme example of mass selection-against a particular disability could be taken as ethically unproblematic, unless it was clearly the case that the particular disability in question was unambiguously harmful to well-being. It may make sense, for example, and as previously mentioned, to consistently and systematically select against the presence of those disability-making features which necessarily cause a short and incredibly painful existence. The problem is, it is not clear that Down

⁷⁸ Julian Quinones & Arijeta Lajka, "What kind of society do you want to live in?: Inside the country where Down syndrome is disappearing," (2017).

syndrome is necessarily a disability of this type. Indeed, this seems, to me, to be an unambiguous example of the very, very slippery slope that Barnes warns of with her cautions regarding the goal of necessarily attempting to either prevent or cure disability, in this arguably ableist social world.⁷⁹

Conclusion

That disability, itself and as a kind, is a mere-difference strikes some as implausible, and the implications that follow from this view strike some as unacceptable. Defenders of this view, however, are unconcerned with these responses.

There is available empirical evidence—both in the form of experiential testimony from those with privileged epistemic access, and in the form of social scientific research—to support the thesis that the presence of an active disability-making feature (that is, the active presence of a disability) does not necessitate the reduction of individual levels of well-being.

While it is true that there also exists much empirical evidence that particular disabilities are concurrent with a reduction in well-being, it is a mistake to generalize from this to the conclusion that disability, as a kind, is such that it has a similarly necessary effect on individual well-being. Arguments which seek to claim that disability necessarily involves a lack of access to important opportunities fail for reasons of overgeneralization. Arguments which seek to claim that disability is necessarily harmful are such that they disregard the available evidence to the contrary. Arguments which reject the claim that considerations, such as principles of non-interference, sufficiently explain the permissibility outcomes regarding affecting a change in disability status, may be relying on the presupposition of a bad-difference view. If this is not the case, then it is the task of the bad-difference defender to

⁷⁹ Barnes (2014), (2016).

demonstrate as much. Finally, the bad-difference view, itself, is not immune from criticism; it appears to bear its own burden of unacceptable implications, against which it must be defended.

While the mere-difference view may indeed be unorthodox, this alone is an insufficient reason for its dismissal. As a community of thinkers, it is in the best interest of our theorizing to consider all the available empirical data regarding disability, and to bear in mind the remarkably complex nature of its kind. It would clearly be a mistake to believe that gaps in our knowledge, or gaps in available social scientific data, are such that they represent some form of evidence of any particular view of disability. Rather, such gaps should be viewed as an opportunity to ask questions and seek further answers.

In conclusion, while there are a number of arguments which seek to discredit the mere-difference view, it is unclear to me that any have yet to succeed. As such, on my view, the thesis of mere-difference continues to hold. Disability, itself and as a kind, is not necessarily a bad difference, nor is it necessarily a good difference. Disability is, rather, a mere-difference which exerts no necessary effect on individual well-being; it is value-neutral.

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