# OFF

#### Interpretation and violation – the affirmative must advocate for the hypothetical implementation of a topical plan – they didn’t.

#### Appropriation means use, exploitation, or occupation that is permanent and to the exclusion of others

Babcock 19 Professor of Law, Georgetown University Law Cente. Babcock, Hope M. "The Public Trust Doctrine, Outer Space, and the Global Commons: Time to Call Home ET." Syracuse L. Rev. 69 (2019): 191.

Article II is one of those succeeding provisions that curtails “the freedom of use outlined in Article [I] by declaring that outer space, including the [m]oon and other celestial bodies, is not subject to national appropriation.”147 It flatly prohibits national appropriation of any celestial body in outer space “by means of use or occupation, or by any other means.”148 However, “many types of ‘use’ or ‘exploitation’. . . are inconceivable without appropriation of some degree at least of any materials taken,” like ore or water.149 If this view of Article II’s prohibitory language is correct, then “it is not at all farfetched to say that the OST actually installs a blanket prohibition on many beneficial forms of development.”150 However, the OST only prohibits an appropriation that constitutes a “long-term use and permanent occupation, to the exclusion of all others.”151

#### Outer space refers to the space beyond the Earth’s atmosphere.

Vereshchetin 06 [Vladlen, former Member of the ICJ, Chairman of the International Law Commission, and Professor of International Law] “Outer Space,” Max Planck Encyclopedia of Public International Law, <https://spacelaw.univie.ac.at/fileadmin/user_upload/p_spacelaw/EPIL_Outer_Space.pdf>, 2006

A. Definition of the Term ‘Outer Space’

1 The term ‘outer space’, like several other basic notions of space law (‘outer space activity’, ‘space flight’, ‘space object’), although frequently used in space agreements and other space law instruments, has never been defined by them. There are a number of reasons for this, not least the objective difficulty for the States concerned to agree on legal definitions in the context of rapidly developing technology and their apprehension that legally binding definitions might restrict their sphere of operation.

2 The absence of a formal definition of outer space does not mean that no general perception exists as to what is meant by outer space, even if the use of the term in natural sciences and in law may not always be exactly the same. It should be remembered that there is no definitive physical boundary between atmospheric space and extra-atmospheric space, the transition from one to the other being gradual. Although at 100 km the density of the air is but one millionth of what it is at sea level, for natural scientists these two regions of space, in some respects, may be perceived as one single whole. However, with the launching of the first satellite in 1957 the notion of outer space became inextricably linked with the exploration and uses of space by means of man-made spacecraft (→ Spacecraft, Satellites, and Space Objects). The physical and technical factors are directly relevant to the legal regulation of the region of space concerned. The atmospheric space of the earth and most of the activities in this space fall within the ambit of → Air Law. The space beyond the atmosphere is governed by space law. The ‘spatial’ element of each of the two above-mentioned branches of law is reflected in their denominations: the first being known as air (ie atmospheric) law, the second as space law, often referred to as outer space (ie extra-atmospheric) law.

3 The legal regimes governing → airspace and outer space are fundamentally different. Thus, logically and jurisprudentially it is necessary to know where air space ends and outer space begins. In theory, there must be no ‘outer’ boundary of application of space law, since outer space itself is limitless, but in practice space law, keeping pace with the development of space technology, does not purport to regulate space activity beyond the solar system (see Art. 1 Agreement Governing the Activities of State on the Moon and Other Celestial Bodies [(adopted 18 December 1979, entered into force 11 July 1984) 1363 UNTS 3]). At the same time, ‘celestial bodies’ of the solar system, other than the earth, but comprising the Moon, are included in the legal notion of outer space (→ Moon and Celestial Bodies). This follows from the title and text of the Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, Including the Moon and other Celestial Bodies ([signed 27 January 1967, entered into force 10 October 1967] 610 UNTS 205) (‘Outer Space Treaty’).

#### Extra topicality independently links to our offense – it allows the affirmative to add on random unpredictable planks to generate extra advantages and solve net benefits, which ruins neg preparation, especially when the majority of their offense and framing comes from the extra-topical part.

#### Vote negative for predictable limits and ground—-allowing the affirmative to pick any grounds for the debate makes negative engagement impossible, by skirting a predictable starting point and making our preparation and research useless. Because debate is a competitive game, there is an incentive to revert to truisms that give the negative no chance at engagement. The lack of a plan also means the affirmative can shift their advocacy in later speeches instead of being tied to a particular text, which obviates negative arguments.

#### There are two impacts –

#### Fairness – A predictable limit is the only way to give the neg a chance to win—-radical aff choice shifts the grounds for the debate and puts the aff far ahead. Pre-tournament negative preparation is structured around topical plans as points of offense, which means anything other than a topical plan structurally favors the affirmative. Fairness is an intrinsic good—-debate is fundamentally a game and requires effective competition between the aff and the neg—-the only way for any benefit to be produced from debate and the reason why people are incentivized to do prep and research is to help them do better in their next round is if the judge can make a decision between two sides who have had a relatively equal chance to prepare for a common point of debate. Fairness also comes before substance—-deciding any other argument in this debate cannot be disentangled from our inability to prepare for it—-any argument you think they’re winning is a link, not a reason to vote for them, because it’s just as likely that they’re winning it because we weren’t able to effectively prepare to defeat it.

#### Second is clash---advocacy tied to the resolution incentivizes nuanced research and CLASH with a well prepared opponent---They turn debate into one with no negative counterargumentation which causes confirmation bias and less good affirmatives. It also doesn’t subject the aff to rigorous arugmentation which eliminates the skills necessary to make real material change in the world and doesn’t generate real productive discussions – turns their offense.

#### Debate inevitably involves exclusions on content—making sure that those exclusions occur along reciprocal lines is necessary to foster democratic habits. This process outweighs the content of the aff.

Amanda ANDERSON 6, Andrew W. Mellon Professor for the Humanities at Brown University [*The Way We Argue Now*, Princeton University Press, p. 25-28]

Whether such a procedural approach actually helps to yield any substantive normative guidance is an issue of debate. Habermas has sought to justify communicative ethics through appeal to the principles of respect and reciprocity that he claims are inherent in linguistic practices geared toward reaching understanding. Attempting to redress the overwhelmingly negative forms of critique characteristic of both the Frankfurt School and poststructuralist traditions, he argues that the logocentrism of Western thought and the powerful instrumentality of reason are not absolute but rather constitute “a systematic foreshortening and distortion of a potential always already operative in the communicative practice of everyday life.” The potential he refers to is the potential for mutual understanding “inscribed into communication in ordinary language.” 7 Habermas acknowledges the dominance and reach of instrumental reason—his project is largely devoted to a systematic analysis of the historical conditions and social effects of that dominance—yet at the same time he wishes to retrieve an emancipatory model of communicative [END PAGE 25] reason derived from a linguistic understanding of intersubjective relations. As Benhabib argues, this form of communicative action, embodied in the highly controversial and pervasively misunderstood concept of the “ideal speech situation,” entails strong ethical assumptions, namely the principles of universal moral respect and egalitarian reciprocity (SS, 29). Habermas has famously argued that he does not believe any metaphysical grounding of such norms is possible; he insists instead that we view the normative constraints of the ideal speech community as “universal pragmatic presuppositions” of competent moral actors who have reached the postconventional stage of moral reasoning. Habermas’s theory combines a “weak transcendental argument” concerning the four types of validity claims operative in speech acts with an empirical reconstruction of psychosocial development derived from Lawrence Kohlberg. Benhabib, though she, too, appeals to socialization processes, distinguishes her position from Habermas’s “weak transcendental argument” by promoting a “historically self-conscious universalism” that locates the ethical principles of respect and reciprocity as “constituents of the moral point of view from within the normative hermeneutic horizon of modernity” (SS, 30). Benhabib’s work thus constitutes, like Habermas’s, a strong defense of specific potentialities of modernity. She differs from him in two key respects, besides the emphasis already outlined. First, she believes that Habermas’s emphasis on consensus seriously distorts his account of communicative ethics. Like others who have argued against the conflation of understanding and consensus, Benhabib champions instead a discourse model of ethics that is geared toward keeping the conversation going: When we shift the burden of the moral test in communicative ethics from consensus to the idea of an ongoing moral conversation, we begin to ask not what all would or could agree to as a result of practical discourses to be morally permissible or impermissible, but what would be allowed and perhaps even necessary from the standpoint of continuing and sustaining the practice of the moral conversation among us. The emphasis now is less on rational agreement, but more on sustaining those normative practices and moral relationships within which reasoned agreement as a way of life can flourish and continue. (SS, 38)8 [END PAGE 26] The second significant difference between Habermas and Benhabib is that Benhabib rejects Habermas’s rigid opposition between justice and the good life, an opposition that effectively relegates identity-based politics to a lower plane of moral practice, and that for Benhabib undercuts our ability to apprehend the radical particularity of the other. While she believes in the importance of self-reflexive interrogations of conventional identities and roles, she strongly opposes any ethics or politics that privileges the unencumbered or detached self over the concrete, embodied, situated self. She argues in particular against those liberal models that imagine that conversations of moral justification should take place between individuals who have bracketed their strongest cultural or social identifications and attachments. Instead she promotes what she calls an “interactive universalism”: Interactive universalism acknowledges the plurality of modes of being human, and differences among humans, without endorsing all these pluralities and differences as morally and politically valid. While agreeing that normative disputes can be settled rationally, and that fairness, reciprocity and some procedure of universalizability are constituents, that is, necessary conditions of the moral standpoint, interactive universalism regards difference as a starting point for reflection and action. In this sense, “universality” is a regulative ideal that does not deny our embodied and embedded identity, but aims at developing moral attitudes and encouraging political transformations that can yield a point of view acceptable to all. Universality is not the ideal consensus of fictitiously defined selves, but the concrete process in politics and morals of the struggle of concrete, embodied selves, striving for autonomy. (SS, 153) This passage encapsulates the core of Benhabib’s position, which attempts to mediate between universalism and particularism as traditionally understood. On the one hand, universalism’s informing principles of rational argumentation, fairness, and reciprocity adjudicate between different positions in the ethicopolitical realm, enabling crucial distinctions between those notions of the good life that promote interactive universalism and those that threaten its key principles. It insists, in other words, that there is a specifiable moral standpoint from which—to take a few prominent examples—Serbian aggression, neo-Nazism, and gay bashing can be definitively condemned. On the other hand, universalism “regards difference as a starting point.” It understands identity as “embodied and embedded” and promotes encounters with otherness so as to nurture the development of a moral attitude that will “yield a point of view acceptable to all.” Of course it must simultaneously be recognized that the “all” here cannot coherently include those who have, according to universalism’s own principles, forfeited their place as equal participants in the ethicopolitical [END PAGE 27] community. Ironically, then, Benhabib’s redefinition of universalism insists on inevitable exclusion, but not in the sense that many poststructuralist and postmodernist cultural critics do, as the hardwired effect of universalism’s false claims to inclusiveness, and as victimizing those disempowered by race, class, gender, or sexuality. Against naive conceptions of inclusiveness and plurality, which ultimately prove self-undermining in their toleration of communities, individuals, and practices that exclude others arbitrarily, interactive universalism claims that certain exclusions are not only justified, but indeed required by the principles of recognition and respect that underpin democratic institutions and practices.

#### Topical version of the aff – critcize how space colonizaitonn is rooted i futurity which is an extension of the disability drive – use sufficiency when evaluating the TVA because all deficits are neg ground. This and SSD solve their offense by re-centering debate on disability scholarship

#### Topicality must be a voting issue—the role of the ballot is to vote for whoever does the better debating over the resolutional question. Any aff role for debate must explain why we switch sides and why there has to be a winner and a loser—switching sides within the competitive yet limited bounds of the topic performs the labor of the negative which avoids group polarization and untested advocacy

#### Theory is an issue of competing interpretations because reasonability invites arbitrary judge intervention based on preference rather than argumentation and encourages a race to the bottom in which debaters will exploit a judge’s tolerance for questionable argumentation.

# Case

## UV

#### Definitions aren’t ableist – even if they win all of this, they don’t have an interp or a definition of the topic, so even if that’s generally true, it doesn’t apply to our interp

#### 1. that is an essentialist and offensive totalization that disabled people can’t understand the topic, which is empirically refuted by tons of disabled debaters – this is external offense and a reason to vote neg because it makes debate violent, it also flips access, because their reading of disability is violently paternalistic

#### 2. no impact – ev is about text generally, and they link more, because their aff is just a wall of cards and their model requires an unlimited research burden, which forces disabled people to deal with a totally unwieldly amount of research, which flips access

#### 3. only framework solves – norms are the predictable alternative to a purely textual reading of the topic, and the skills our model confers solve the structures that make scriptocentrism possible, which link turns and outweighs the case

#### Their conquergood evidence should be rejected on face – it’s manipulated evidence cut mid paragraph, and it’s summarizing an argument about why written texts are exclusionary, which links worse to the case

**Conquergood 13** [Conquergood, Dwight. Cultural struggles: Performance, ethnography, praxis. University of Michigan Press, 2013. (a professor of anthropology and performance studies at Northwestern University)//Elmer

In his critique of the limitations of literacy, Kenneth Burke argued that print-based scholarship has built-in blind spots and a conditioned deafness: Te [written] record is usually but a fragment of the expression (as the written word omits all telltale record of gesture and tonality; and not only may our “literacy” keep us from missing the omissions, it may blunt us to the appreciation of tone and gesture, so that even when we witness the full expression, we note only those aspects of it that can be written down). (Burke 1969, 185) In even stronger terms, Raymond Williams challenged the class-based arrogance of scriptocentrism, pointing to the “error” and “delusion” of “highly educated” people who are “so driven in on their reading” that “they fail to notice that there are other forms of skilled, intelligent, creative activity” such as “theatre” and “active politics.” Tis error “resembles that of the narrow reformer who supposes that farm labourers and village crafsmen were once uneducated, merely because they could not read.” He argued that “the contempt” for performance and practical activity, “which is always latent in the highly literate, is a mark of the observer’s limits, not those of the activities themselves” (Williams 1983, 309). Williams critiqued scholars for limiting their sources to written materials; I agree with Burke that scholarship is so skewed toward texts that even when researchers do attend to extralinguistic human action and embodied events they construe them as texts to be read.

Begins Mid Paragraph

According to de Certeau, this scriptocentrism is a **hallmark of Western imperialism**. Posted above the gates of modernity, this sign: “‘Here only what is written is understood.’ Such is the internal law of that which has constituted itself as ‘Western’ [and ‘white’]” Only middle-class academics could blithely assume that all the world is a text because reading and writing are central to their everyday lives and occupational security. For many people throughout the world, however, particularly subaltern groups, texts are often inaccessible, or threatening, charged with the regulator)' powers of the state. More often than not, subordinate people experience texts and the bureaucracy of literacy as instruments of control and displacement, e.g., **green cards, passports, arrest warrants, deportation orders**—what de Certeau calls "intextuation": "Ever)' power, including **the power of law, is written first of all on the backs of its subjects"** (1984:140). Among the most oppressed people in the United States today are the "undocumented" immigrants, the so-called "il- legal aliens," known in the vernacular as the people "sin papeles," the people without papers, indocitmentado/as. They are illegal because they are not legible, they trouble "the writing machine of the law" (de Certeau 1984:141). **The hegemony of textualism needs to be exposed and undermined.** Transcrip- tion is not a **transparent or politically innocent model for** conceptualizing or **engaging the world**. The root metaphor of the text underpins the **supremacy of Western knowledge systems** by **erasing** the vast realm of human **knowledge and meaningful action that is unlettered,** "a history of the tacit and the habitual" (Jackson 2000:29). In their multivolume historical ethnography of colonialism/ evangelism in South Africa, John and Jean ComarofFpay careful attention to the way Tswana people argued with their white interlocutors "both verbally and nonverbally" (1997:47; see also 1991). They excavate spaces of agency and strug- gle from everyday performance practices—clothing, gardening, healing, trading, worshipping, architecture, and homemaking—to reveal an impressive repertoire of conscious, creative, critical, contrapuntal responses to the imperialist project that exceeded the verbal. The Comarofis intervene in an academically fashionable textual fundamentalism and fetish of the (verbal) archive where "text—a sad proxy for life—becomes all" (1992:26). "In this day and age," they ask, "do we still have to remind ourselves that many of the players on any historical stage **cannot speak at all? Or**, under greater or lesser duress, **opt not to** do so" (1997:48; see also Scott 1990)?

#### Off Delgado – we can agree that structural fairness exists- but not being T doesn’t resolve those structural access barriers—even if other fairness disparities exist—we should hold onto the resolution because it’s the only thing everyone definitively has access to – no one got a head start with the topic and everyone eventually has to go neg

#### Antonio conflates imagining hypothetical consequences with overidentification with simulated actors – there is no warrant for this – saying the federal government should pass civil rights legislation does not require identifying as joe biden

#### Independently, fiat is good for consequential distancing – forces us to consider how our actions affect other people instead of acting in an ideologically pure way with disastrous results

#### Off their theory incoherent – overview these don’t have a claim, warrant, and impact – any 1ar articulation or implication will be new and I should get new responses

#### Off their #1 – our answers to Delgado answer this

#### Off #2 through #4 – who does the better debating determines better norms – if a norm cannot win debate rounds consistently then it’s not defensible – independently we have made a fairness not a norming argument

#### Off #5 – constituative rule of fairness has not been established mid-round, we are just pointing out midround that they have violated this rule

#### Off #6 – this proves that we set the best norms not bad ones if the one that is marginally better wins – also they haven’t proven that our offense is marginal or small

#### #7 has no impact – obvi we make arguments

#### #8 means they lose? They havne’t proven res true

#### 1 – Reject permissibility and presumption triggers –

#### a] they mean actions like rape, genocide, slavery, and saying the n word are allowed and can’t be morally condemned – that’s something you should reject on face, especially in an educational space for high schoolers.

## Top

**Disability as ontological doesn’t stand up to scrutiny – it marginalizes individuals with severe or chronic impairments and essentializes disability**

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**Although it is wise to remember** that **policies about health and medical discourses may conceal ideological content, it also seems quite radical to argue that disability is exclusively a social phenomenon to be dealt with by social measures. Yet, such is the claim of social modelists.** As the “new paradigm,” the social model of disability, underwent various criticisms; this essay suggests that many of them misfired by attempting to be ontological rather than political arguments.Conversely, I also suggest that **social modelists may overstep the boundaries of their criticism** of the ideological/oppressive use of the medicalization of disability **by being over-suspicious of all individualist/experiential standpoints on disability.** It is not clear whether all such standpoints hinder the full inclusion of disabled people within society; in fact, their proponents think the contrary. My overarching claim is that the disagreement between individual and social modelists about whether disability should qualify individual experiences or social experiences, or both, is largely based on the political consequences of doing so. Since individual and social modelists have substantially different ethical issues in mind, **it may be a more productive approach to focus on these more specific ethical issues and either use an ethically open version of the concept of disability or abandon it altogether.** I grant that potentially valid political reasons may be weighed against such a proposal. **These reasons, however, should be presented in terms of political costs,**4 **rather than as confused ontological arguments.** II. THE DICHOTOMY CRITICISM One very widespread and important criticism of **the social model** is that it **severs the connection between impairment/biology/medicine, on the one hand, and disability, on the other.** When we talk about “disability,” social modelists hold that we ought to be referring only to a social phenomenon rather than to a medical one. This disconnect is negatively criticized because **it** is said to **amputate important dimensions of disabled people’s lives. Some people experience disability as an individual rather than a social problem, such as people with severe and chronic illnesses that cause them constant discomfort.** Still **others do not perceive themselves to be an oppressed minority and resist the idea that they have a false consciousness or have internalized the oppression victimizing them** (Shakespeare and Watson, 2001, 9). Some may well associate their identity with discrimination (for instance, toward their gender, race, or sexuality) but not mainly with disability. The social model focuses on a standpoint external to these individual experiences of disability and therefore neglects and discredits them (Morris, 1991; Shakespeare and Watson, 2001). Social modelists indeed claim that (these subjective experiences of) impairments ought not to contribute to an understanding of disability. Because the social model of disability creates a clear dichotomy between impairment and disability by denying the causal relation or equivalence between both, let us call this criticism the dichotomy criticism. The dichotomy criticism is the most obvious criticism one can make of the social model. It is also one of the gravest, one that the social model could not survive if it were accurate. It is the most obvious and fatal criticism because it squarely denies its starting point. The initial insight offered by the social modelist is that we ought to take our distance from the medical model because this traditional model of disability is masquerading a social problem as an individual one and is dissimulating social oppression under medical categories and biological misfortune. III. HOW THE DICHOTOMY CRITICISM MERGES INTO THE “NEGLECTING/DENYING IMPAIRMENTS” CRITICISM It is facile to criticize the social model for its claim that we ought to disconnect the notions of impairment and disability because it is their main and most provoking or counterintuitive claim. Critics need to provide arguments to substantiate their criticism and we should expect these arguments to say why it would be unwise to follow the apparently well-founded social modelist agenda of reserving the word “disability” for social barriers and oppression. It is striking, however, how little argument is provided to support the dichotomy criticism per se. These arguments exist,5 but they are not generally brought up along with the dichotomy criticism in a way that would substantiate a constructive discussion about this disagreement. Instead, the denial of the validity or desirability of the impairment/disability distinction is surprisingly tautological. When authors write that “in maintaining that disability is squarely socially caused, the social model theorists are over-socialising their position” (Terzi, 2004, 152), or that “it would be neither straightforward or desirable to make the distinction between impairment and disability that [Oliver] takes for granted” (Shakespeare and Watson, 2001, 18), they are saying little more than that they disagree with making disability an exclusively social affair. When others write that impairment cannot be considered separately from disability “[b]ecause the dichotomy between impairment and disability … is not ontological” (Anastasiou and Kauffman, 2013, 447) or “precisely because impairment and disability are not dichotomous” (Shakespeare, 2014, 25), they are saying little more than “there is no dichotomy because there is no dichotomy.” This kind of answer is evidently insufficient. Social modelists no more take the impairment/disability dichotomy for granted than others take the impairment-disability causality for granted. Social modelists cannot be criticized only for not being in sync with what people commonly mean by “disabilities,” because it is precisely this common meaning that they are denouncing as being rooted in prejudices and oppression. Putting problematic tautological claims aside, many authors substantiate the dichotomy criticism with the claim that the social model underestimates the importance of impairment (Morris, 1991, 10; Anastasiou and Kauffman, 2013, 445). This is a common conceptual confusion that I want to dispel here. The claim that the social model underestimates the importance of impairment does not necessarily support the dichotomy criticism. Instead, it supports what could be called the “Neglecting/Denying Impairments Criticism.” This criticism takes various forms as it attacks various distinct claims that it associates with the social model. It criticizes the social model for “neglecting,” “denigrating,” “denying,” or “dismissing” the phenomenon of impairment (Anastasiou and Kauffman, 2013, 445; Shakespeare, 2014, 18). **Normatively, the social model is criticized for underestimating the intrinsic gravity or badness of impairments or certain biological conditions** (Morris, 1991, 10). **Ontologically, it is criticized for denying the objective reality of impairment** (Terzi, 2004, 151). **Although there is some sophisticated literature arguing against and in favor of the objective reality of impairment, and whether it should be characterized as a “fact of nature” or a social construct** (Abberley, 1987; Amundson, 2000; Vehmas and Mäkelä, 2009, 42; Boorse, 2010), **not all variants of the social model of disability are wedded to a social constructivist view of impairment as they are to a constructivist view of disability**. Mainstream versions of the social model––or at least its UK version, best represented by Oliver and Finkelstein––simply do not deny that impairments are real and that they matter. **One senses a clear irritation in Michael Oliver’s writings** (Oliver, 2013, 1024), **because he has spent two decades repeating that the social model never meant to deny that impairments are real and important or that they may cause real harm independently from social intervention**: As a severely disabled tetraplegic, who every day of my life needs to make the necessary arrangements to be able to get up in the morning and go to bed at night and, indeed, use the toilet, I find such suggestions galling … Of course, [we] are aware of the limitations that impairments impose. (Oliver, 2009, 48) The social model need not deny that these personal experiences related to biological realities exist and matter or should be taken care of. If anything, **Oliver suggested that a “social model of impairment” be developed alongside a sociology of disability** (Oliver, 1996, 42). **What he denies is only the idea that we should call them “disability.”** Therefore, the “Neglecting/Denying Impairments Criticism” misses its target (at least when authors aim it at this mainstream social model, as they still do (cf. Anastasiou and Kauffman, 2013)). However, some critics of the social model insist that the Neglecting/Denying Impairments Criticism can count as a Dichotomy Criticism. They argue that the fact of **creating a dichotomy between impairment and disability and of choosing to focus on disability has the harmful implication of undervaluing the importance of impairments.** Sometimes, this claim is about the theory itself: it is a necessary implication of the social approach. Sometimes, this claim is about the badness of the consequences that the implementation of such a theory is likely to bring about, empirically speaking (Shakespeare, 2014, 17–9). I believe that the second line of argument is promising because it engages with what the social model actually holds by challenging the way in which it assesses the political cost of using disability to refer to individual or social phenomena. However, before turning to those arguments, I want to suggest how the first kind of criticism made against the social model—according to which its exclusive focus on social dimensions of impairment-related limitations obliterates the importance or existence of personal or individual experiences of “disability”—is either very weak or question-begging and should be abandoned. Here is an illustration of this kind of claim: **The proponents of the social model use the distinction between impairment and disability in a radically different way, that of ontological** (or social) **constructionism**. First, **they draw a vertical line between biological properties and social dimensions of disabilities. After that, they argue only about social processes**, that is, subject-dependent properties. However, **by choosing to theorize only on sociological grounds, they detach biological and mental elements from the disabled subject.** As a consequence, **by neglecting or denying the underlying biological conditions of people with disabilities, they leave out a big part of their existence and activity**. Finally, **their disabled subject is not an individual with a full set of properties** (biological, psychological, social) **but, at best, a “half-person” with only social properties; a “half-man,” biologically naked and only subjected to social values and roles. In the social model, the methodological distinction between impairment and disability gradually slides into a false distinction that assumes an ontological quality. This is a basic tool of social constructionism, which results in reducing the multidimensionality of disability in a single-sided social constructionist dimension—a narrow caricature of real human conditions and considering disabled humans as “half-humans.”** (Anastasiou and Kauffman, 2013, 445) Oliver has answered to this kind of criticism that he does not mean to represent the whole of personal experiences of limitations, pains, or vulnerabilities, but only the experience of being socially oppressed or limited. It is simply a “conceptual misunderstanding” to expect more from his theory: “the social model is not about the personal experience of impairment but the collective experience of disablement” (Oliver, 2009, 48). It is hard to see how social modelists, focus on social oppression, and institutionalized ableism would imply that they do not care about, or discredit, other dimensions of human welfare. Yet, the argument presented above capitalizes on this sort of ad hominem evaluation. To illustrate how tempting and yet dangerously speculative this kind of criticism is, consider another example: a similar argument could be levied against John Rawls for developing a contractualist theory of distributive justice that does not conceptualize severely disabled people as subjects of justice. The fate of these individuals is left for moral and political philosophers to determine at a later time. This is because Rawls’s key interest, i.e., what he sees as “the fundamental question of political justice,” is “what is the most appropriate conception of justice for specifying the terms of social cooperation between citizens regarded as free and equal, and as normal and fully cooperating members of society over a complete life?” (Rawls, 1993, 20). The automatic assumption that not spending one’s academic or even political effort on a cause means that one thinks little of the value of that cause or even that it does not exist is wrongheaded. Granted, it can be the case, in certain academic or political specific contexts, that ignoring an issue speaks volume, but it is far from obvious what exactly is being voluminously spoken. It could be, for instance, a particular theorist’s belief or worldview. To judge people for picking the wrong value to spend their time maximizing or engaging with (for learning German instead of Spanish, for instance) is a rather epistemologically presumptuous terrain for one to step on. To further imply that valuing one thing implies undervaluing another is similarly risky.6 **The issue is that focusing on the limitations that society imposes on people with impairments is certainly a worthwhile endeavor, and that to read in it a denial of the importance of other political and philosophical items––either by putting on a psychoanalyst hat or by finding it to be a necessary implication of one’s theory within a specific cultural context where this theory may become an ideological vector––is a conceptually and empirically dubious effort. It would also jeopardize all scientific or philosophical endeavors by keeping their validity hostage to a dangerously speculative scrutiny at best and an ideological witch-hunt at worst.** Just like Rawls thought that the key question of political justice was a contractual one, social modelists think that the key question of disability is a social one. It may be held that both are wrong in thinking this, but not that they do not care about other issues, such as the personal experiences of disabled people. Indeed, both have explicitly attested to the contrary. We have to take these arguments at face value if we are to respect the kind of rational discussion that philosophy aims at achieving. Suspicions of prejudices or harmful cultural consequences lurking behind a theory can be used by a critic to better detect the weak points of an argument (inaccurate or conceptually implausible premises), but it is these formal weaknesses that must serve to discredit an argument, not the suspicions. Unless they can avoid falling in the previously mentioned traps, I therefore suggest that **critics of the social model should no longer use the impairment/disability dichotomy and/or the exclusive theoretical commitment of the social model on social oppression and barriers as indications of a shortcoming inherent to the theory itself. To blame the social model for proposing a truncated ontology of human beings is “to criticize the social model for not being something that it has never claimed to be”** (Oliver, 2009, 49). To further suggest that social modelists are implicitly adopting such an ontology is either question-begging or too speculative and weak an argument. IV. CAN THE DICHOTOMY CRITICISM BE CONCEPTUALLY SUBSTANTIATED? To sum up, **social modelists do not deny that impairments exist or matter.** However, **they do deny that impairments should in any way be called, or seen as causing, disabilities.** As we saw, criticisms of that view (the Dichotomy Criticism) take some tautological or speculative forms that are dead-ends. **The critics hold that disability is at least partly due to impairment or biological conditions. The social view holds that disability is wholly caused by socially constructed barriers. The social model could limit itself to a strictly pragmatic claim: we ought to reserve the name of “disability” for social oppression alone because of the bad consequences that doing otherwise would have**. We will examine this claim afterward. **However, social modelists are** (or at least many of them sound) **ontologically bolder and reserve the term of “disability” to connote a “social situation”** (UPIAS, 1976, 3–4) **out of politico-semantic opportunism**. For instance, social modelists traditionally use a historical-materialist line of argument to argue that disability is a “social relationship.” To understand disability, they claim, is to understand “a definite relationship to the way in which the material conditions of life are created and recreated” (Finkelstein, 1980, 9; Oliver, 1990). The immediate answer to that claim is a counterexample: many individuals who would uncontroversially be said to qualify as “disabled” in society would still be “disabled” if a Utopian discrimination-free society came about (Terzi, 2004). Blindness, for instance, would still constitute a biological dysfunction that would cause, independently of social structures, many experienced limitations. The social modelist’s counter-answer is that the blind person is only disabled when society disables her. Otherwise, she is impaired or limited, but not disabled. These claims and counter-claims make it look like both sides to the debate are emitting a semantic fiat. This is a natural place to already state my conclusion: they are, but their attempt to justify it would be better served by political rather than ontological arguments. Both sides have important but distinct concerns, and their war over naming their respective concern “disability” is doomed to fail. Here is how it could have succeeded. Their fundamental dissension has to do with the causal dimension of disability (whether it is caused by biology or society). **In order for the ontological disagreement to progress, we need a benchmark definition that does not include a prior commitment to either view, that is, a definition of “disability” that is neutral on the causality issue. The party who comes up with (1) the most convincing causality-neutral definition of disability that (2) then is best matched by their causality-committed definition of disability will have provided a valid argument for integrating their view of causality in the definition of disability.** A neutral definition of disability could look like this one: Disability is not only a (1) limitation (e.g., like not being able to read minds), but (2) a limitation that one has which most people around one do not have (it would have statistical and species-related features). (3) It is a long-lasting or recurrent state and (4) it affects people with an impairment, understood as a biological dysfunction.7 However, it turns out that **any such definition will be incomplete because all sides agree that disability has a normative component, in that it calls for a response, medical, social, or otherwise. To know how to respond to disability, one must know the roots of disability: one must know, therefore, what causes the aspects of disability that must be addressed**. A thinner concept is imaginable but would be unhelpful. If the idea of causality is key to the notion of disability, disability would be an essentially contested concept.8 If disability is a relational, comparativist, normative notion, an uncontested notion of disability would be a holy grail. It would provide clear answers to a plethora of difficult moral questions concerning whether and how stringently society must attend to the needs of disabled people. We must examine my claim that an axiologically neutral concept of disability would not do much work in solving these difficult questions: is it really the case? Anita Silvers was perceptive to the problem of different theorists or practitioners speaking at cross-purposes when using the concept of disability. This essay also unmasks some confusions typical of this mutual misunderstanding. I am, however, skeptical that conceptual disagreements about the ontology of disability can, or should, be overcome (although I believe that political and empirical disagreement about the consequences of the use of a specific definition of disability might be). Silvers, however, appears more optimistic and proposes a neutral concept of disability. She suggests “some constituents of, and constraints upon the adequacy of, [a neutral notion of disability],” that is, a notion of disability that is not value-laden (Silvers, 2003, 473). Silvers is particularly interested in suspending the assumption of neutral or positive value associated with being disabled.9 (She is particularly interested in the conceptual clashes between bioethicists and disability advocates, just as I am interested in the conceptual disagreement between proponents of individualist and social disability models.) According to her neutral view of disability, one should assume neither that being disabled makes one’s life worse off (she associates this view with the bioethicists) nor that it is neutral (she associates this view with disability theorists). To say that “disability” can connote both positively and negatively valued states does not necessarily translate into a neutral notion of disability. It can just as well translate into two categories of disabilities: those that have (a) no negative impact on the person and those that are (b) negatively value-laden. That seems plausible, if not evident. Silvers suggests that we take “disability” to mean (c) a neutral notion that has not yet fallen into either category (a) or (b). Surely that is good advice for theorists who assume that all disabilities are to be negatively valued and for theorists who assume that all negative value of disability is medically and socially constructed. These two sides appear sometimes unduly to generalize what only holds for some cases of disability. However, I wonder how much philosophical work this neutral notion of disability is supposed to accomplish. My worry is that it is limited to allowing heated debates to cool down. If so, it would contribute to a discursive ethics between proponents of the medical and of the social models, or between (most) (utilitarian) bioethicists and (most) disability theorists. As such, a proto-axiological (i.e., yet to be qualified in terms of value) version of disability is useful but only plays the role of a modest, tactful, peaceful, explicitly ontologically fallible way to engage with contrary views. My concern is that it does not help us otherwise. To put my point more forcefully, Silvers’s proposal could be read as a proposal to abandon the notion of “disability” altogether from ethical discussions and deal with more specific value-laden elements––such as pain, loss of options, limitations (including particular socially-caused limitations), oppression, etc.––instead of the blanket, ambiguous notion of disability, which could, or not, imply all, some, or none of these other notions. This is undoubtedly one of Silvers’s explicit ambitions: that we do not conflate disability with these. What to make, then, of her proposal to develop a “theory” based on a neutral account of disability (Silvers, 2003, 485)? I am not sure that this idea qualifies as a theory as much as a call to keep existing social/medical/normalizing theories in their proper places. It reminds us not to jump the gun by assuming that disability is a bad thing or by assuming that it can never be intrinsically bad but that only social failures create (it and) its badness. However, disability becomes ethically interesting as a phenomenon when it is value-laden, and so it seems that we will quickly have to drop the general proto-axiological/neutral conception of disability as the moral and political discussion about any particular case progress. I note that the neutral conception of disability may still have an identity-building use; this use might helpfully remain value-neutral. Silvers’s analogy with the “construction of a neutral conceptualization of women’s differences” as “one of the great conceptual achievements of the twentieth century” points in this direction (Silvers, 2003, 483). A space for women and disabled people to say “I am neither better or worse off; I am just different” seems desirable, but that kind of claim may be more profitable within identity-building endeavors or claims for recognition than within the kind of moral and political discussions that Silvers has in mind (notably, on issues of inclusion and redistribution).10 To be potentially valued (or associated with more specific notions that are valued) in positive, negative, and neutral ways does not make a concept neutral: it makes it pluralistic value-wise. This is why I find that Silvers’s argument, while pointing to the “possibility and desirability of constructing a neutral conception of disability,” actually buttresses the case for letting go of the essentially contested concept of “disability” in ethical discussions and using more specific items of discussion, such as “oppression” or “physical pain and discomfort.” “Disability” could still be used as a shorthand for these notions: disability qua oppression, disability qua medical condition, etc. It could be that some of these understandings of disability would be wrongheaded (such as disability qua tragedy or disability qua punishment for sinful former lives), but one would then criticize these specific notions (such as being punished for a sinful former life) for their own wrongheadedness, rather than for not matching an objective concept of “disability.” I conclude that (1) **the concept of “disability” cannot be used as an objective ontological benchmark because disability is too contested a concept** and (2) a neutral version of this conception would not take us far enough to settle substantial disagreements.

#### Multiple examples of state reforms being redeemable:

#### - 2010 – Rosa's Law changed references in federal statutes that pathologized disability make them say "intellectual disability"

#### - 2011 – The FAIR Education Act mandates that California schools must include the contributions of people with disabilities in their textbooks and in teaching of history and social studies classes,

#### - 2013 – The U.S. Department of Education issued a mandate requiring schools to provide sports for children with disabilities

#### - 2013 – North Carolina gave reparations to compensate men and women who were sterilized in the state's eugenics program;

#### - 2016 – An ethics rule of the American Bar Association now forbids comments or actions that single out someone on the basis of disability, as well as other factors.

#### 2. The future is a contingent phenomenon but foreclosing any hope destroys the possibility of survival---you should prioritize material adjustments in living conditions because they produce the conditions for more radical politics down the line

**Ruti 17** (Mari, Professor of critical theory and of sexual diversity studies at the University of Toronto, “The Ethiscs of Opting Out: Queer Theory’s Defiant Subjects,” Page 127-129)

It seems to me that the humanist subject can die in a variety of different ways. Edelman’s account of queer antisociality drains the subject of creativity, meaning, relationality, and agency, allowing it to be overtaken by the mindless pulsation of the death drive. But there are those of us who would like to reconfigure the posthumanist subject in less dejected terms, who, instead of dismissing notions like creativity, meaning, relationality, agency, and inner restoration, would like to figure out what these concepts might mean in the posthumanist context. This is not a matter of returning to a time before poststructuralism but rather of working toward a place beyond it; it is not a matter of discarding the critical tools that we have gained from poststructuralism but rather of putting these tools to less doctrinaire use; and it is not a matter of holding on to an outdated vision of the masterful and self-transparent subject but rather of building a better understanding of what it means to live in the world as an embodied creature who can never fully master or understand the parameters of its own being.

It is not insignificant that those of us advancing this softer version of posthumanist theory tend to possess a strong commitment to matters of social survival, justice, and responsibility. Among other things, this commitment explains why we are not averse to the possibility that hopefulness may at times be more radical than the cynicism of neo-Lacanian austerity. I  would propose that it is in these more limber genres of posthumanist theory that the innovative (rather than merely defensive) spirit of poststructuralism lives on in a reinvigorated form. I would also argue—and this point should not be taken as a criticism of Edelman, whose stylistic acrobatics I count among the merits of No Future—that insofar as these new forms of posthumanist theory reject faithfulness to torpid forms of overworked rhetoric, they exemplify what is most revolutionary about queer theory, namely, its resistance to obsolete kinship structures of all kinds. For me at least, there is nothing as strange as queer theory that remains intractably devoted to the most sacrosanct pieties of poststructuralism.

Let us assume from the outset that the subject is alienated, fragmented, and non-self-identical, that its every attempt at self-mastery is undermined by unconscious currents of desire, and that its sociality is always to some extent disrupted by the antisocial energies of the real. Let us also assume that nonreproductive pleasure is valuable, that eros in its unshackled form is rebellious, and that we want to defeat heteronormative, patriarchal, and racist structures of social organization. What we are then left with is the dicey question of how the queer subject—or any subject for that matter—is to proceed with its life. After all, the fact that the subject is socially constituted rather than essential, that it only manages to attain a culturally intelligible identity at the price of lack, and that it is internally torn by antagonistic forces that pull it in contradictory directions does not mean that it is released from the task of fashioning a livable life for itself; if anything, it means that this task is all the more demanding, sometimes even perhaps calling for the type of negotiation with hegemonic power that Butler advocates.

The main fissure I see in contemporary queer theory resides between those who recognize the necessity of such existential negotiation—affect theorists such as Berlant being the most obvious example—and those who persist in the notion that any concession to the idea that there are lives to be lived in the “real” world leads to soft-hearted and naïve forms of theorizing. Even though I believe that Butler negotiates too willingly, I find Edelman’s extreme version of queer antisociality even more problematic, which is why I have sought to offer an alternative reading of Lacanian negativity. I have sought to show that, far from foreclosing the future in the manner that Edelman proposes, Lacanian negativity holds open the future as a space of ever-renewed possibility. This insight in turn allows me to conceptualize the contours of (queer) subjectivity along less nihilistic lines. After all, barring some life-erasing catastrophe, there will always be a future in the future, even (hopefully for some time) for Professor Edelman. The question that remains—the only question worth asking—is what this future should (or could) entail.

#### 3. There is zero empirical basis for psychoanalysis – their authors either grossly misrepresent empirical data or hubristically extrapolate single events into broad theories – this answers overkill since there’s no basis for their theory

Paris 17 [Dr Paris is Professor, Department of Psychiatry, McGill University, and Research Associate, Department of Psychiatry, Jewish General Hospital. "Is Psychoanalysis Still Relevant to Psychiatry?" https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5459228/]

In an era in which psychiatry is dominated by neuroscience-based models, psychological constructs tend to be neglected and may be taken seriously only when they have neural correlates.37 Some psychoanalysts have sought to link their model with neurobiological research and to claim that newer methods of studying the brain can validate their theories.5,6

Mark Solms, a South African neuropsychologist, is the founder of “neuropsychoanalysis.” This new field, with its own society and its own journal, proposes to use neuroimaging to confirm analytic theories. Its key idea is that subjective experience and the unconscious mind can be observed through neuroimaging.5 It is known that brain processes can be seen on brain imaging even before they have entered consciousness.38 However, claims that neuroimaging validate Freud’s model of the unconscious can be based only on “cherry-picking” the literature. The observed correspondences are superficial and hardly support the complex edifice of psychoanalytic theory.

Solms39 has also suggested that Freud’s ideas about dreams are consistent with neuroscience research based on rapid eye movement (REM) activity. This attempt to rescue a century-old theory met with opposition from dream researchers who consider Freud’s clinical speculations to be incompatible with empirical data.40,41

The proposal to establish a discipline of neuropsychoanalysis also met with a mixed reception from traditional psychoanalysts, who did not want to dilute Freud’s wine with neuroscientific water.42 Neuroscientists, who are more likely to see links to psychology as lying in cognitive science,43 have ignored this idea. In summary, neuropsychoanalysis is being used a way to justify long-standing models, without attempting to find something new or to develop an integration of perspectives on psychology.

However, Eric Kandel,44 influential in the light of his Nobel Prize for the study of the neurochemistry of memory, has taken a sympathetic view of the use of biological methods to study psychoanalytic theory. Kandel had wanted to be an analyst before becoming a neuroscientist.45 But Kandel, who does not actively practice psychiatry, may be caught in a time warp, unaware that psychoanalysis has been overtaken by competitors in the field of psychotherapy.

Another attempt to reconcile psychoanalysis with science has come from the literature on neuroplasticity.46 It is now known that neurogenesis occurs in some brain regions (particularly the hippocampus) during adulthood and that neural connections undergo modification in all parts of the brain. There is also evidence that CBT can produce brain changes that are visible using imaging.47 These findings have not been confirmed in psychoanalytic therapies. However, Norman Doidge, a Canadian psychoanalyst, has argued that psychoanalysis can change the brain.48 This may be the case for all psychotherapies. However, more recently, Doidge49 has claimed that mental exercises can reverse the course of severe neurological and psychiatric problems, including chronic pain, stroke, multiple sclerosis, Parkinson’s disease, and autism. While these books have been best-sellers, most of their ideas in the second volume,49 based on anecdotes rather than on clinical trials, have had little impact in medicine. This story underscores the difficulty of reconciling the perspectives and methods of psychoanalysis with scientific methods based on empirical testing.

Psychoanalysis and the Humanities

Psychoanalysis claimed to be a science but did not function like one. It failed to operationalize its hypotheses, to test them with empirical methods, or to remove constructs that failed to gain scientific support.1 In this way, the intellectual world of psychoanalysis more closely resembles the humanities. Today, with few psychiatrists or clinical psychologists entering psychoanalytic training, the door has been opened to practitioners with backgrounds in other disciplines, including the humanities.

This trend is related to a hermeneutic mode of thought,50 which focuses on meaningful interpretations of phenomena, rather than on empirical testing of hypotheses and observations. Since the time of Freud, the typical psychoanalytic paper has consisted of speculations backed up with illustrations, similar to the methods of literary theory and criticism.

One model currently popular in the humanities is “critical theory.”51 This postmodernist approach uses Marxist concepts to explain phenomena ranging from literature to politics. It proposes that truth is entirely relative and often governed by hidden social forces. In its most radical form, in the work of Michel Foucault,52 critical theory and postmodernism take an antiscience position, denying the existence of objective truth and viewing scientific findings as ways of defending the “hegemony” of those in power.

Some humanist scholars have adopted the ideas of Jacques Lacan, a French psychoanalyst who created his own movement and whose eccentric clinical practice resembled that of a cult leader.

53 Moreover, recruitment of professionals and academics with no training in science could lead to an increasing isolation of the discipline. While only a few contemporary psychoanalysts have embraced postmodernism, the humanities have made use of psychoanalytical concepts for their own purposes as a way of understanding literature and history.

#### Their preempt to psychoanalysis indicts doesn’t address our argument – still no empirical basis, falsifiability, or explanatory power

#### 4. Debate can be a vehicle for change – just because change is not immediate doesn’t mean it impossible

Palczewski 19 Catherine Helen Palczewski, Professor of Communication Studies and former Director of Debate @ University of Northern Iowa. A Personal/Political Case for Debate Philosophy & Rhetoric Volume 52, Number 1, 2019 Penn State University Press https://muse.jhu.edu/article/721923

On 26 May 2015, four seventh- and eighth-grade students spoke to the Portland Public Schools (PPS) Board of Education about their district's dress code (Porter 2016). Jeffrey Roberts testified about how the code stereotypes boys as distractible and how the prohibition on jerseys and sagging targeted specific students based on race. Hailey Tjensvold and Anna Loisa Cruz testified about the double standard that resulted in 100 percent of the students sent home being girls. Sophia Carlson argued the message sent to girls was that "hiding her body is more important than her education. . . boys are more entitled to their education than she is." The arguments presented by the students persuaded the school board to form a committee of students, parents, teachers, and administrators to create a code "fair and nondiscriminatory to all students" (McCombs 2017).

Lisa Frack, Oregon NOW board president, was at the school board meeting and had been developing a model dress code. Frack, along with Carlson and NOW board vice-president Elleanor Chin, served on the PPS Board of Education committee, which met for two hours every month for a year. The PPS Board of Education adopted a new code, based on the Oregon NOW model, in June 2016.

The debate was not contained to Oregon. In August 2017, Evanston Township High School (ETHS) in Illinois updated its dress code based on the Oregon NOW model after a student advisor to the school board found it online. ETHS district superintendent Eric Witherspoon had "heard from our students that their ability to be inspired to learn was directly impacted by their daily experiences with dress code enforcement because of their gender identity or expression, racial identity, cultural or religious identity, [End Page 89] body size, or body maturity" (quoted in McCombs 2017). As administrators reviewed the data, they found it "supported the students' claims of being disciplined disproportionately across racial and gender lines" (McCombs 2017).

This example illustrates a few things about debate.

First, debate is still possible and still matters. The students' arguments persuaded a group with the power to change policy. Then, people with different power positions and different interests (students, administrators, teachers, parents, community members) worked together to develop a solution.

Second, debate depends on people's willingness to consider claims supported by data. After students at ETHS claimed that the dress code was inequitably enforced along racial and gender lines, administrators found that the data regarding disciplinary actions supported these claims. Debate is possible when people are willing to consider changing their positions and subscribe to the rules of the game (i.e., that arguments require evidence).

Third, debate depends on extended interactions over time. Changing the dress code took hundreds of hours of work over months of meetings. Woman suffrage took over seven decades of debates. That does not mean that change is impossible. Instead, it means that change requires debate, deliberation, input from affected parties, and careful balancing of costs and benefits. Debate's extended interactions require patience and persistence. Just because you (think you) are right does not mean that people will automatically stop doing something or start doing something else. Winning the debate is only the first step in changing attitudes and behaviors.

Fourth, although public policy has personal impacts, debate encourages a systemic, and systematic, view rather than a personal one. For example, the individual students could have simply resorted to a personal solution, such as changing their clothing or having their parents talk to the principal. Instead, the students talked to each other, identified a systemic problem with the code and its implementation, and introduced the topic for public deliberation. They sought an institutional change that enabled them to achieve personal goals of self-expression and educational achievement.

It is possible for data to convince others (like a school's administration) that their implementation of policy is discriminatory and that it needs to be changed. It is possible to convince institutions (like school boards) to change their policies. It is possible for those who disagree to work toward a solution. Although we are in a political climate where reasonable argument and evidence (for example, of death tolls from Hurricane Maria in [End Page 90] Puerto Rico) seem to matter less, and political affiliation matters more, this example ought to give hope. 2

#### 5. Even if political liberalism currently excludes the disabled, discussing questions of implementation can revise it and bailing on it is worse

Badano 13 (Gabriele – PhD candidate at the Centre for Philosophy, Justice and Health at University College London – “Political liberalism and the justice claims of the disabled: a reconciliation,” Critical Review of International Social and Political Philosophy, April 2013, http://www.tandfonline.com/eprint/tHKkbrxhGYIWAxTcJrAW/full#.UxyV-PldX-4)

I argue that any proposal abandoning the language of political justice would not seem to do enough for those individuals with disabilities who fall outside the basic idea of persons as depicted by Rawls. In fact, the intuitions supporting the idea that concepts like rights and opportunities are indispensable are very strong.11 Let us go back to the examples of individuals falling outside Rawls’s idea of persons because their disabilities prevent them from being a net beneﬁt to social cooperation. They are individuals who need multiple carers to work, or whose disabilities prevent them from providing a beneﬁt to social cooperation that is large enough. To put the point more sharply, it is worth noticing that the disabilities in question are compatible with being in full possession of one’s logical and moral powers. Now, should we accept that those individuals ought to be given no rights or opportunities? An afﬁrmative answer would strike us as implausible, and for a good reason. In a liberal society, having one’s rights, opportunities and basic distributive entitlements acknowledged is one and the same as being recognized as an equal. And what is missing from Rawls’s political liberalism is precisely the idea that falling below a threshold of full cooperation should not be enough to prevent the disabled from being regarded as persons on an equal footing with anyone else.

In sum, Rawls’s political liberalism is not amenable to any extension that, keeping the basic ideas of society and persons intact, is able to include a concern with the status of individuals with disabilities. In addition, the proposal that the interests of the disabled are not for public reason to protect is not satisfactory. Consequently, a substantial revision is the only way to reconcile political liberalism with our intuitions concerning what is due to the disabled.

5. Revising political liberalism I: beyond Hartley’s contractualism The aim of this section and the next is to propose a substantial revision of Rawls’s theory that accommodates the justice claims of the disabled while upholding the project of political liberalism. A question that needs to be answered at this point is: why should we uphold the project of political liberalism, rather than endorsing a different model that more neatly ﬁts with our intuitions concerning what is due to the disabled? First, the general project of political liberalism is compelling. Rawls’s political liberalism aims to identify a common ground of political ideas that can work as the basis on which the most important political decisions should be made. This project is of the greatest importance because, if successful, it creates legitimacy by building institutions on the basis of concepts that are acceptable to each reasonable individual. Moreover, it promotes stability in societies that are characterized by deep pluralism.

Second, despite Rawls’s failure to take the interests of the disabled into consideration, political liberalism is well suited to support the justice claims of individuals with disabilities. This is because the idea that the disabled are citizens who deserve our respect is part of the common culture of our societies. In other words, there is an overlapping consensus on the idea that rights, opportunities and distributive shares must be granted to individuals who are not fully cooperating members of society, including those who fall below full moral powers. It is widely believed that those with physical disabilities should have the same rights as their fellow citizens, live in a social environment that does not excessively limit their opportunities and receive beneﬁts that help meet their special needs. Besides, although the state or third parties are given exceptional rights to interfere with the autonomy of individuals with severe cognitive disabilities, it is widely recognized that the mentally disabled are citizens whose basic interests must be protected by the law.12 In the public space, any proposal that individuals who are not fully cooperating members of society should have their basic interests neglected would be widely received with outrage. Such proposal would be said to ﬁt a fascist society, not a decent one. Among other legal documents, the United Nations Convention on the Rights of Persons with Disabilities (UN General Assembly, A/61/611) can be taken as the epitome of this widespread attitude. Adopted in 2006, the Convention requires that all individuals with disabilities should share in the enjoyment of equal fundamental rights.

#### Legislative advocacy changes disability policy and attitudes – empirics prove

Landmark et al 17 (Leena Landmark, Professor at Ohio University. Dalun Zhang, Professor at Texas A&M University. Song Ju, Professor at the University of Cincinnati. Melissa Yi, MS from Texas A&M University. Timothy C. McVey, BA from Ohio University. “Experiences of Disability Advocates and Self-Advocates in Texas”. Journal of Disability Policy Studies 2017, Vol. 27(4) 203–211) swap

Legislative advocacy is a prime channel for disability advocates to affect civil rights and disability-related legislation and policy that leads to improved quality of life for individuals with disabilities. To highlight the current status of disability legislative advocacy, this study examined advocacy experiences based on recent data from one state that involved 113 disability advocates and self-advocates. Analyses were conducted to examine the characteristics of advocates, the causes advocated, leadership positions, level of engagement, and frequency of engagement in the legislative advocacy process. Relations among advocates’ characteristics and advocacy experiences were also examined. Results revealed that individuals with disabilities mostly relied on their peers in the advocacy process, and the type of disability was associated with the causes advocated. In addition, holding a leadership position was associated with engagement in the legislative advocacy process. Quality of life is an important goal for all people. For individuals who have disabilities, the degree to which they are satisfied with their lives may have increased importance because they have not always been afforded the opportunity to live according to their desires (Francis, Blue-Banning, & Turnbull, 2014; Verdugo, Navas, Gomez, & Schalock, 2012). Self-determination, one of the comprising domains of the quality-of-life construct, has been linked to positive adult outcomes for individuals with disabilities. Individuals who possess self-determination tend to achieve greater independent living and employment outcomes than individuals who are not as self-determined (Wehmeyer & Palmer, 2003). As a component element of self-determination, self advocacy is essential for improving quality-of-life outcomes. Self-advocacy (including parent advocacy) and leadership skills have played important roles in the history of special education and disability rights. As early as the 1930s, local groups of parents banded together to obtain educational services for their children with disabilities (Yell, Rogers, & Rogers, 1998). By the 1970s, individuals with developmental disabilities announced they were people first, and the self-advocacy movement was spawned in the United States (Longhurst, 1994). An early victory in the effort to gain services required for independent living was the passage of Section 504 of the Rehabilitation Act of 1973, which prohibited establishments receiving federal funding from discrimination against people with disabilities. One of the greatest victories was the passage of the Americans with Disabilities Act of 1990, a civil rights law prohibiting discrimination against people with disabilities. The advocacy movement has allowed people with disabilities the opportunity to explore their group identity, gain a sense of empowerment, and learn how to stand up for equal rights (Browning, Thorin, & Rhoades, 1984). Landmark legislation such as Section 504 of the Rehabilitation Act of 1973, the Education for All Handicapped Children Act of 1975 (renamed the Individuals With Disabilities Education Act in 1990), and the Americans with Disabilities Act of 1990 would not have been enacted without the advocacy efforts of individuals with disabilities and their families. Through legislative advocacy, Americans with disabilities have shaped public policy and made their lives better.