

# Harm, Liberty, and Disability

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## Abstract

This paper offers a libertarian approach to disability discourse. Using John Stuart Mill's *On Liberty*, I argue that current discourse involves a "tyranny of the majority" that silences those in minority positions, including disabled people. Disability discourses are disregarded or dismissed because they often do not fit seamlessly into the opinions of the majority. Like Mill, I will argue that a society cannot flourish if it silences those who may disagree with the majority, or simply offer a different perspective. In a libertarian society, the only time a person's liberty to think and to act can be restricted is when he or she poses a harm to others. Disability discourse, while different, does not pose any harm to the populace and it ought to be encouraged in a healthy, pluralistic civilization.

Among the works of man which human life is rightly employed in perfecting and beautifying, the first in importance surely is man himself... Human nature is not a machine to be built after a model, and set to do exactly the work prescribed for it, but a tree, which requires to grow and develop itself on all sides, according to the tendency of the inward forces which make it a living thing (Mill 1978, pp. 56-7).

In the liberal pursuit of happiness, there are few restrictions placed on our personal development. 1 If we are all to be endowed with liberty, then we should have a wealth of opportunities at our disposal. We would need equal opportunity and fairness as norms to allow ourselves to pursue our ends. There would be few, if any barricades erected before us that could obstruct our respective pursuits. We seemingly encounter few physical and psychological deterrents. We feel entitled to speak for ourselves. We create our own discourse. We can describe our individual being-in-the-world without the sighs and the gasps of those who observe us. We seldom fear that our defects or disabilities are plainly visible. We seldom fear that bodily defects encumber us. Equal opportunity is not a distant fantasy. Many vocations are available. Numerous talents can be cultivated. If we have any defects or disabilities, our clothes can conceal them or our gregarious personalities can overcome them. Most importantly, we need not apologize for our appearances. We need not explain away our disabilities because they are seemingly nonexistent.

In this paper, I examine the ways in which disabled people can speak for themselves instead of always already having a discourse to speak for them. Using the liberal approach of John Stuart Mill, I will argue that as long as we all refrain from harming others, our liberty ought to not be restricted by any means. Disabled people need not be coerced into adopting existent disability discourse as the arbiter for their experiences in a world populated by non-bodied and seemingly "normal" denizens.

Rosemarie Garland Thomson has argued that disability has been "[c]onstructed as the embodiment or corporeal insufficiency and deviance, the physically disabled body becomes a repository for social anxieties about such troubling concerns as vulnerability, control, and identity" (Thomson 1997, p. 6). In other words, the physically disabled body makes some feel ill-at-ease. Some might feel better if they were banished to the private rooms of a clinic or a special school. Some are not fully accustomed to those who are not aesthetically similar to themselves. Some are unaccustomed to bodies that are literally joined at the hip or the head. Because these bodies dramatically differ from what is considered normal, some cannot help but imagine the immense possibilities that medicine can provide for these unfortunate ones. Perhaps medicine ought to intervene to separate conjoined twins or to lengthen the bones of little people. Or, perhaps we expect disabled people to be sequestered to alleviate *our* malaise. Do disabled people violate codes of health, normalcy, and beauty? Why do we fear such people? Leslie Fiedler has observed that "...such fear turns into hate; a hatred of ourselves for being unable to resist that shameful panic, then of those who stir it in us, and who therefore, we tell ourselves — projecting what we cannot bear onto the "other" — they must surely hate us for hating themselves (Fiedler 1996, p. 41).

When in the presence of the abnormal, some might bristle at such spectacles. Perhaps those who bristle are projecting their numerous insecurities onto these unwilling victims. Fiedler adds that we have succumbed to a "tyranny of the normal." This is a tyranny "sustained by creating in those outside the norm shame and self-hatred — particularly if they happen to suffer from those 'deformities' that we cannot prevent or cure" (p. 154).

When confronted with Fiedler's "tyranny of the normal" paradigm, I immediately think of Daniel Callahan's bioethical term, "technological brinkmanship" (Callahan 2000). While Callahan is discussing euthanasia for the terminally ill, in most medical discourse, one could argue that if we have the technology to cure, prolong, and enhance life, we ought to pursue such a course. We ought not to place any strictures on the use of technology to overcome the fragile health of the body and the mind. Regarding disabled people, if there is a way to correct their deformities to normalize their minds and bodies, are we not compelled morally to do so? If we gravitate towards that which is normal, we presumably are repulsed by those who deviate from the normal. We are repulsed yet transfixed by such deviance and difference. Friedrich Nietzsche said long ago that "difference engenders hatred" (Nietzsche 1977). It is the very stark differences that oblige us to medicalize every bodily and psychological malfunction. If we cleanly subsumed every problem into the domain of medical science, any apparent problem could be addressed so that differences are lessened. However, we could simply accept these differences. We need not view disability as a pathological condition. We might be better served if we turned our clinical and/or aesthetic gazes towards ourselves instead of others.

Thomson has observed that there is a dearth of "mitigating narratives" for disabled people who venture out into public life, or at least make the attempt to so do (Thomson 1997, p. 10). As a result, the others often speak on behalf of disabled people or disfigured because disabled people are often viewed only as moral patients, not moral agents. As a moral patient, disabled people would have *some* moral standing. If disabled people have defects that can be corrected, we may justify medical intervention. We could show beneficence towards disabled people by altering and repairing defects that would otherwise ostracize and stigmatize them. They could be sheltered

from the public so they need not face the judgmental gazes of those who fall within the normal. But by refusing to recognize disabled people as moral agents, we do not view them as people capable of autonomously authorizing their own actions. We must do it for them.

If we categorize disabled people as moral patients only, we on the other side can evince benevolence, kindness, and caring for them. This is one problem of having so few disability narratives. We do not comprehend their experiences. We try to imaginatively identify with their experiences. Yet, all of our experiences are incommensurate. As a sighted person, I can blindfold myself and try to convince others that I genuinely understand what blindness is like. Covering my eyes is not enough. I have already seen colors. I have already seen shapes. How could I pretend to have never seen such objects? Perfect reflexivity of non-disabled/disabled perspectives does not seem possible. On the other side, with so few mitigating narratives, disabled people may be unable to articulate their experiences in a world apparently created only for the normal. If disabled people are barred from authoring their own identities without the binary opposition of normal/abnormal looming over them, how would they not feel tyrannized and terrorized?

Discourse does not seem readily available to disabled people since they ostensibly have no other way to articulate and negotiate their way into a world made for others. For Plato, one could not call a woman beautiful without truly understanding beauty itself. A beautiful woman is but a representation of the eternal and changeless form of beauty (Plato 1961, 211e). Perhaps this eternal form of beauty does not exist. Yet if we suspend the search for eternal goodness, truth and beauty, we can focus on a world that is populated with a multiplicity of human beings in all shapes and sizes. Instead of compressing everything into the normal and condemning all that is abnormal, we ought to hold the imperative of normalization in abeyance. Elizabeth Grosz points out that our own narcissism often prevents us from understanding those who can enthrall and disgust us (Grosz 1997, p. 64). Such people transcend the boundaries of the normal, and these are boundaries by which we comprehend ourselves and others.

The refusal to recognize those who fall outside of the normal as being capable of agency is no fault of theirs, but ours. Fiedler has argued that disabled people and disfigured wear a "badge of shame" that bespeaks of long exclusion and exploitation from the public (Fiedler 1978, p. 13). It is not that disabled people and disfigured have willingly and proudly worn these badges to separate themselves from the normal, the ordinary, and the mundane. Rather, they may have had little choice but to internalize the shame and horror that others feel and express when in their presence. If it is not shame and horror, then it is pity. If disabled people are to be a part of the public, they must have more than minimal moral standing. This means we ought to refrain from equating disabled people with helpless infants or invalids. I argue that the status of disabled must be enlarged to include moral agency. Disabled people have the capacity to act morally. They have the capacity to be both recipients and doers of moral actions. Why should they not be seen as moral agents? Gawking onlookers may think those who are different from themselves have violated some arbitrarily constructed norm of beauty, but that should not compromise the moral agency they are capable of having. With moral agency comes full participation in society. Someone may be aesthetically distasteful to the majority, but the majority should not dictate what any minority should look like or what they should do. Fiedler has his "tyranny of the normal" while John Stuart Mill has his "tyranny of the majority". According to Mill, we interfere

in the lives of others only when they can potentially harm us. If a person's disability has not harmed someone, his or her liberty should not be restricted.

John Stuart Mill outlines his defense of liberalism in *On Liberty*. Mill has a marked *laissez-faire* approach to thought, discussion, and individuality. According to Mill, this "tyranny of the majority" has served only to oppress the weaker, less politically involved groups. Certain types may not fit the normal cultural or religious mode of the times and as result, they may be punished for it. Even if the tyranny does not entail state-sponsored ethnic cleansing, there is still the desire to stifle any opinions that differ from the majority. A fresh perspective that is an undertow to the stale but long accepted opinions of the state is to be discouraged. Mill claims that

[P]rotection... against the tyranny of the magistrate is not enough; there needs protection also against the tyranny of prevailing opinion and feeling, against the tendency of society to impose, by other means than civil penalties, its own ideas and practices as rules of conduct on those who dissent from them; to better the development and, if possible, prevent the formation of any individuality not in harmony with its ways, and compel all characters to fashion themselves upon the model of its own (Mill 1978, pp. 4-5).

According to Mill, intervention in the lives of others is rarely justified unless the person or persons pose a serious threat to others. Most of us live according to our relatively innocuous opinions and preferences. If they do not cause harm to others, they should not be suppressed. This is Mill's "harm principle." Mill states "the only purpose for which power can be rightfully exercised over any member of a civilized community, against his will, is to prevent harm to others...[h]is own good, either physical or moral, is not a sufficient warrant" (p. 9). Cigarettes are harmful to a person's health, but if no one is in the range of second-hand smoke, we are not permitted to force the person to quit. If the person's behavior is "other-regarding," there could be grounds for restricting that person's liberty.

I argue that this principle can be extended to disabled people. There is often an imperative to isolate these disabled individuals and medicalize their entire bodies. Some are even paraded around as spectacles of wonder and terror. The status of disabled people as full human beings or even as a full male or female could be considered by some to be ambiguous. It must be corrected or therefore condemned. That may be the prevailing opinion, but on my interpretation of Mill, it should have no impact whatsoever on the lives of disabled people. There are conjoined twins who have shown no desire to be separated. In her study of the conjoined Schappell twins, Nancy Segal has observed that "[w]e may wrongly think of these twins as impossibly doomed, rather than as people simply trying to live their lives" (Segal 1999, p. 304). The twins use the term "handicapable" to describe their experiences, meaning that they are competent at what they do, but they perform their deeds slower than others (p. 304). Existing discourse might not allow for terms such as "handicapable." It may be simpler to negotiate life with one body and one head, but separation should not be coerced, even if it were to profoundly benefit the twins more than remaining conjoined. Too often appearances that fall outside of the normal have been classified as pathological disorders that either can be treated and/or cured. Not too long ago, many still thought that a deformed child was the result of a negative "maternal impression" that the mother had had while pregnant (Bondeson 1997). Subsuming disabled people into conventionally agreed

upon medical categories gives more legitimacy to paternalistic intervention, but that intervention on someone else's behalf is still unjustified. According to Mill, we are authorized to interfere with the liberty of another only for self-protection, and not because they make us wince or shift uncomfortably in our seats (p. 9).

Mill does not solely discuss liberty as it relates to the imprisonment or institutionalization of those who repel the majority. Bodily liberty is not enough. Mill also defends the liberty of thought and discussion. Mill argues that "[i]f all mankind were of one opinion, and only one person were of the contrary opinion, mankind would be no more justified in silencing that one person than he, if he had the power, would be justified in silencing mankind" (p. 16). Those in the minority may have their own remote observational standpoint, but that standpoint is no less illicit than the status quo. Would we reinforce a fit and healthy society if we were to silence the dissenting opinions? Mill argues that muting others adversely affects us:

The peculiar evil of silencing the expression of an opinion is that it is robbing the human race, posterity as well as the existing generation — those who dissent from the opinion, still more than those who hold it. If the opinion is right, they are deprived of the opportunity of exchanging error for truth; if wrong, they lose, what is almost as great a benefit, the clearer perception and livelier impression of truth produced by its collision with error (p. 16).

It does not necessarily matter whether a disabled person has the *right* opinion. What matters is that he or she is permitted to express it without any reprisals. To silence someone nullifies their discursive claims. Mill does not view a society that provides the freedom of noninterference for the many but not all as an enlightened society. It is merely an oppressive society forcibly asserting its control for a contrived sense of concord among its denizens.

Mill argues that many prevailing opinions of the past have since been refuted or discarded. The same may happen to the prevailing opinions of today (p. 17). The majority will have its way with those encumbered by unpopularity, obscurity, or peculiarity. Our fallibility is evident, yet we have often consigned our fallible opinions to the realm of eternal truths. These "truths" may be nothing more than oppressive fictions. These are fictions which can imprison those who do not hold them. The recognition of other perspectives does not necessarily entail the adherence or even acquiescence to those perspectives. Recognition entails the accommodation of other perspectives.

Mill also encourages the development of individuality. We have become entrenched in our many Procrustean programs of molding characters as we see fit. If a person's individuality is rendered subversive in some way, we are galvanized to prevent any further damage to the sociopolitical fabric of our society. We can terrorize those who differ from us. We can ostracize them. We can erode their self-assurance. We can enact laws that disempower and disenfranchise them. The majoritarian imperative to appease the many and neglect the few has legislated a political disarmament of those whose opinions have not adapted to the *vox populi*. The majority can certainly assert itself if it is given legislative recourse to believe and achieve what it will. Or, the majority could leave the others alone. How much moral risk is involved in letting citizens act for themselves? If no harm is done to anyone else, the majority does not need to fear such liberty. Mill argues that if such behavior is "self-regarding," why should this behavior be anyone else's

concern? Even if a person's unhealthy habits harm himself only, we are not permitted to restrict his liberty, even if it were for his own good. Even if a person's abnormal growths startle those in the marketplace, we should not feel compelled to cast off this person. If our behavior harms no one, we should all be allowed to flourish on our own without needing the authorization from others.

Mill makes a clear demarcation between actions that he deems lawful, and those which ought to be forbidden:

Acts, of whatever kind, which without justifiable cause do harm to others may be, and in more important cases absolutely require to be, controlled by the unfavorable sentiments, and, when needful, by the active interference of mankind. The liberty of the individual must be thus far limited; he must not make himself a nuisance to other people. But if he refrains from molesting others in what concerns them, and merely acts according to his own inclination and judgment in things which concern himself, the same reasons which show that opinion should be free prove also that he should be allowed, without molestation, to carry his opinions into practice at his own cost (p. 53).

The statement's cogency though is in the determination of what constitutes a "nuisance" to other people. The eugenic inclinations of nations like World War II Germany exhorted their citizens to be concerned about the collective health of their race for the sake of posterity. It is clear that many believed certain groups to be pollutants to the master race. Even if a nation does not adopt a program of eugenics, there is still the veneer of pessimism and disgust towards those whose apparent abnormalities deface the beauty, strength, and vigor of the population. The forced sterilization of those considered "feeble-minded" in the United States was commonplace up through the twentieth century. It was a practice declared constitutional by the United States Supreme Court (see *Buck vs. Bell* 274 U.S. 200). And there is still that unrequited need to beautify and perfect the population for the sake of fitness and survival. It is not that those of us who fall within the scope of the "normal" are nascent eugenicists. However, when advertisements that ask for egg and sperm donors focus heavily on physical and intellectual features, the concern over the desire to create a class of "designer babies" becomes all the more palpable. The surge in biotechnologies such as pre-implantation genetic diagnosis (PGD) could prevent potentially disabled persons from even being removed from the petri dish. The majority could easily declare disabled people and potentially disabled persons to be nuisances. These nuisances could pose veritable harm to others.

While this passage can be misappropriated, I argue that such an interpretation is completely erroneous. Mill claims that even the ostensible health and survival of a society is still no warrant for restricting the liberty of an individual. Differences of opinion are not enough to justify the erosion of civil liberties. Personal behavior that is offensive to others is no justification either. But if disabled people act according their own inclinations and judgments without "molesting" others, their liberties should not be curtailed. While Mill does not explicitly protect disabled people from discrimination, I argue that his plea for enlarging liberty at the expense of the tyrannical majority does include disabled people. Nuisances do not entail those who are not aesthetically pleasing or those who need ramps to enter a building.

Furthermore, following the lead of others creates a stifling atmosphere of pedestrian accomplishments and goals. Those who follow the ways of others instead of themselves create endless barricades to their capability and intelligence. If we countenance the majority opinion only, Mill fears there will be a dearth of human flourishing. If academics wither at the thought of opposing intellectual dogmas, the university will be nothing more than a marketplace for banal and housebroken ideas. If the populace is not given the freedom to thrive, then deep-seated prejudices will never be flushed from the public. I am not claiming that every person is capable of profound enlightenment. But not giving the citizens a chance to even cultivate ideas commits them to an endless cultural morass. Mill claims that "[p]ersons of genius, it is true, are, and are always likely to be, a small minority; but in order to have them, it is necessary to preserve the soil in which they grow...[for] genius can only breathe freely in an *atmosphere* of freedom" (p. 62). Mill adds that the majority is a mass who "do not take their opinions from dignitaries in Church or State...or from books...[because] their thinking is done for them by men much like themselves, addressing them or speaking in their name, on the spur of the moment, through newspapers" (p. 63). It takes little for this majority to follow the lead of others. Subscribing to already-sanctioned opinions is a more facile solution. If medical authorities consider all conjoined twins to be in an afflictive state, most citizens will concur. Where is the opposing evidence? Where is the opposing discourse that challenges these acculturated opinions? It would seem counterintuitive to claim that Downs Syndrome sufferers have a dramatically compromised quality of life. How could such people understand what a high quality of life is? Yet if we continue to make uncritical assumptions about disabled people, they will always be a neglected class endowed with fewer rights.

Mill is attempting to limit the power that the government can exercise over the individual. Limiting this power expands the negative right of the individual to be left alone. This right enables the individual to pursue her conception of the good life unencumbered, provided that she does not harm anyone in this pursuit. The right to be left alone seems to be conducive towards enriching the lives of those engaged in the pursuit of happiness since most strictures on the actions would be eliminated. Is it possible that the right to be left alone would actually harm those in pursuit of happiness? Disabled people would have the same rights as everyone else. But the right to be left alone could forbid any governmental intervention on behalf of disabled people. Disabled people may not be able to pursue the good life without certain accommodations that can be provided by the government. A person who uses a wheelchair may find it difficult to achieve happiness without reasonable access into buildings. Intervention is compulsory so that these ramps and elevators are provided. A disabled person may not be able to achieve happiness without medication. If the person cannot afford this medication on her own, intervention may be necessary. But if we are to be free from governmental intrusion, would the government have any obligation to intervene for the few who might need assistance? If you have the right to be left alone, you might be on your own.

Robert Nozick also sought to limit the authority that the government could exercise over the individual. Nozick's libertarian account entails more than the liberty of thought and discussion. According to Nozick, an "ultraminimal state" is the only just form of government. In an ultraminimal state, the government's role in the lives of its citizens is attenuated to the point that any less government would be nearly anarchic. The state would be required to protect citizens from violence and ensure that property is justly transferred (Nozick, 2007, pp. 238-9). The

ultraminimal state is not obligated to do anything more for its citizens. While Mill seeks to enlarge the scope of rights Nozick argues for an even more extensive set of rights. According to Nozick, these rights act as "side-constraints" upon your actions. (p. 240). You can do as you please as long as your actions do not infringe upon the rights of others. The government also has side-constraints placed on its actions. Nozick argued that side-constraints are imperative for a just society because without them, the government would be free to use its citizens as means (p. 240). Citizens could be used for the sake of something else, with or without their consent. Most citizens would prefer to not pay taxes, but pay them they must. For Nozick, taxation is unjust since the money a state's citizens have rightfully earned is redistributed without their consent. Taxes may go towards entitlement programs to which citizens may object. Nozick points out:

Side constraints express the inviolability of other persons. But why may not one violate persons for the greater social good? ....[T]here is no social entity with a good that undergoes some sacrifice for its own good. There are only individual people, different individual people, with their own individual lives. Using one of these people for the benefit of others, uses him and benefits the others. Nothing more. What happens is that something is done to him for the sake of others (p. 241).

I can certainly donate some of my money to the greater social good. But it is unjust to compel me to transfer any of my resources to others. These resources are mine and only I am entitled to them.

For Nozick, a welfare state is not only odious, it is wholly unjust. According to Nozick, the redistribution of resources is unjust because it transfers or allots "holdings" to people who are not entitled to them (Nozick, 2005, p. 470). This "entitlement theory" contains three principles of justice. I can acquire resources through "the original acquisition of holdings", meaning that I am the original owner of something which was previously unheld. I can also acquire resources through the "transfer of holdings". I justly acquire resources from someone else who previously held those resources. In a Nozickian world, there is justice when these conditions are met:

1. A person who acquires a holding in accordance with the principle of justice in acquisition is entitled to that holding.
2. A person who acquires a holding in accordance with the principle of justice in transfer, from someone else is entitled to that holding, is entitled to that holding.
3. No one is entitled to a holding except by (repeated) applications of 1 and 2 (p. 470).

If any of these conditions of Nozick's entitlement theory are violated, than an injustice has been committed. Injustice can be adjudicated through the third principle, which is "rectification of injustice in holdings." I should be compensated if others possess the resources to which I am entitled.

Nozick would appeal to advocates of small government and fiscal conservatism. Any system of taxation would be unjust. Virtually all interference into the lives of an ultraminimal state's citizens would be unjust. However, widening liberty until it is nearly at the edge of anarchy is detrimental to those who would be in need of resources to which they would not be entitled in this state. Both Mill and Nozick seek to restrict the authority that a government can exercise over



its people. The liberty to be left alone and the liberty of thought and discussion are necessary foundations of a just society. Yet Nozick's libertarian vision could cause veritable harm to persons with disabilities who are left alone but are in need of assistance. Assisting others by personally redistributing wealth would be meritorious, but not obligatory. Nozick's account of liberty is too expansive to help those who would need some intervention in order to fully participate in society. Is Mill's approach any better? Does his account of liberty help instead of hinder persons with disabilities?

For Mill, liberty is more constricted than it is for Nozick. Mill's utilitarian predilections would not have permitted him to support an ultraminimal state. But would liberty of thought and discussion genuinely help persons with disabilities? Would tolerance help these people? Mill's account would forbid actions that obstruct meaningful opportunities in which persons with disabilities can engage. Persons with disabilities can open a dialogue with others. Persons with disabilities do not have to remain hidden. They can pursue an education. They can try to get work. But what if there are legitimate barricades that could impede a disabled person's progress? Opportunities would have to be created for this person. Does Mill's account require the creation of opportunities for those who cannot fully participate in society without them?

Liberty could promote self-interest over public interest. In his remarks on the philosopher Jeremy Bentham, Mill is critical of the former for claiming that self-interest should guide our actions (Mill, 1969, p.14). We would all presumably have an interest in promoting tolerance, but it would not be for any greater good. We would be tolerant of others because we want them to be tolerant of us. Mere tolerance of differing worldviews is sufficient for those who need no assistance whatsoever. Full participation in society would be possible for those who are self-sufficient. But if self-interest is all that guides us, how can we ever do anything that would benefit all of society? According to Mill, not every person is inextricably bound to her selfish needs:

There are, there have been, many human beings, in whom the motives of patriotism or of benevolence have been permanent steady principles of action, superior to any ordinary...temptations of self-interest. There are, and there have been, multitudes, in whom the motive of conscience or moral obligation has been thus paramount. There is nothing in the constitution of human nature to forbid its being so in all mankind (p.15).

According to Mill, if we do not fulfill these obligations to others, "the race will never enjoy one-tenth part of the happiness which our nature is susceptible of" (p. 15). Like libertarianism, liberalism can nurture self-interest. I must follow certain rules before I can pursue my conception of the good life. My conception may not involve helping others if I am not morally obligated to help them.

Moral obligations only carry so much weight. In a liberal society, I could ignore many of my moral obligations with impunity. But a society will not thrive if we all follow suit. In order for a society to maximize happiness, the "virtuous exertion" of feeling or conscience is necessary (p. 15). Those who tend towards selfishness will be bereft of this feeling to promote public interests over private. According to Mill, some of us will have to endeavor to instill this feeling in others. In other words, "... [i]t is by a sort of sympathetic contagion, or inspiration, that a noble mind

assimilates other minds to itself..." (p. 16). Marginalized groups including persons with disabilities can be easily disregarded by the majority. If their interests are not taken into account, their full participation in society will be compromised. Self-interested individuals may not be particularly bothered by this. As long as a person's ability to pursue her conception of the good life is unfettered, everything is in good order. Disengaging self-interested individuals from this frame of mind is Mill's prickly challenge. The emergence of disability discourses is not enough. The toleration of disability discourses is not enough. These discourses must have an impact on the society at large. This will not always happen. Many of us will have to be cognizant of that "sympathetic contagion" in order for there to be palpable changes. Persons with disabilities can ask for reasonable accommodations, but if Congress does not have a sympathetic ear, no legal recognition of rights and opportunities will be forthcoming. Others who are in positions of authority have to respond affirmatively to the discourses of the marginalized.

Few disability discourses could thrive if disabled people are given few, if any, legal protections. If there are those who still oppose the "Americans With Disabilities Act" without any compunction, what recourse can disabled people expect to receive? How can disabled people flourish if they cannot expect "reasonable access" into buildings? While the ADA has been successful since its implementation, the protests that emerged as a result of its very proposal years ago are indicative of a stark hesitation to the recognition of those with documented disabilities. The ADA does not compel the non-disabled to give preferences to disabled people. It compels us to acknowledge that there are people whose physical and mental abilities have been compromised. If we disapprove of such accommodations, then we have not progressed much farther intellectually than those who thought the Elephant Man was the result of his mother becoming frightened by an elephant while pregnant. We are not harmed if we give protections to disabled people. The parking lots will not be fraught with handicap spots to the point where we must park in the street. But such contentious attitudes towards disability rights reflect the majority's refusal to acknowledge the palpable differences that permeate a heterogeneous population. These differences must be accounted for lest we promulgate a kind of social cleansing to reintroduce sameness and uniformity. This fear is duly noted by Mill:

If resistance waits till life is reduced nearly to one uniform type, all deviations from that type will come to be considered impious, immoral, even monstrous and contrary to nature. Mankind speedily becomes unable to conceive diversity when they have been for some time unaccustomed to see it (p. 71).

We not only try to eradicate what is contrary to nature, we seek to subjugate nature ourselves. Conjoined twins may have occurred through no one's choice, but we can correct such a deformity. This does not mean that we ought to correct it. If there are disabilities and deformities that have no medical recourse, we will surely find it one day. If not, we can decimate it and pretend it never existed. We might even be able to claim victory over these horrors and celebrate our genius. We seem to think that if we eradicate the monstrous or that which is contrary to nature, we have demonstrated our great health, our great ingenuity. What we will have demonstrated is a troubling aversion to that which is different.

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## Endnotes

1. I use the pronouns "I", "we", and "they" frequently in this paper. "I" and "we" often refer to those who are inveterately part of the discourse, i.e., those who are privileged and not disabled. "They" is a third person reference. "They" might often refer to disabled people since they are not always in a privileged position. It is my hope in this paper that "we" encompasses disabled people as well.