



# Beyond Welfare Reform: Rethinking Disability Rights through the Lens of Freedom

***Shaikh Mohammad Kaish***

Former Faculty, Department of Political Science,  
Wilson College, Chowpatty, Mumbai  
[md.kaish.shaikh@gmail.com](mailto:md.kaish.shaikh@gmail.com)

**Abstract:**

This essay seeks to undertake a critical examination of the conventional application of rights to individuals with disabilities, primarily within the expansive purview of the "social model of disability." Despite the pivotal role played by the social model in articulating the aspirations of and advocating for disabled individuals, it is imperative to scrutinize its susceptibility to a broader predicament inherent in the overarching "rights discourse." This predicament manifests in the conceptualization of rights predominantly within the paradigm of justice, eclipsing the crucial dimension of freedom. The consequence of such a conceptual framing is a deficient operationalization of rights for disabled individuals, engendering unforeseen repercussions. Notably, the examination extends to the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD) and analogous international disability rights frameworks, revealing a tendency to construe them through the lens of "welfare reform" rather than aligning with broader principles of individual autonomy and freedom.

The paper specifically contends that the foundational tenet of disability rights should be anchored in freedom rather than distributive justice. This departure from the prevalent paradigm not only seeks to contest the conventional understanding but also prompts a reevaluation of the global discourse surrounding disability rights. By foregrounding freedom as the linchpin of disability rights, the argument seeks to rectify the inadequacies in the current discourse, fostering a more comprehensive and nuanced understanding of the multifaceted issues inherent in the intersection of disability, rights and societal structures. In essence, this article advocates for a paradigm shift that transcends the limitations of the prevalent rights discourse, advocating for a conceptualization that places freedom at the forefront of the disability rights agenda on a global scale.

**Key Words:**

Rights Discourse, Freedom, Justice, Disability Rights, Negative-Positive Liberties, UNCRPD.

## Introduction

The concept of "rights" has been intricately interwoven with various constructs within the realm of political theory since its inception in the modern era, notably intersecting with the notion of "freedom." Originating as a crucial tenet of liberal ideology during the Enlightenment, the language of rights emerged as a safeguard for the individual liberties of citizens, acting as a defense against the arbitrary authority wielded by the state (Clifford, 2012). Functioning as instrumental mechanisms aimed at securing freedom, rights constitute claims against those who seek to hinder individual liberties and serve as tools for the facilitation and advocacy of new freedoms.

However, critical examination by disability, feminist, and critical race theorists has spurred a fundamental inquiry: freedom for whom? The relationship between rights and the struggles of oppressed and marginalized groups has been fraught with ambiguity, particularly evident as a pronounced predicament within ostensibly "liberal" democracies, exemplified by the United States. Critics argue that rights were explicitly formulated for propertied white men and are sustained only through the subjugation of white women, landless laborers, and individuals of color (Jaggar, 1983; Pateman, 1988). Despite liberalism's professed emphasis on diversity, the historical application of liberal principles, including rights, has paradoxically led to the erasure of difference. In this context, only specific interests, perspectives, corporeal entities, and life trajectories are deemed worthy by the state and consequently protected by rights (Martin, 2013). Feminist scholars, for instance, assert that difference is portrayed as antithetical to equality, compelling the neglect of women's bodily specificity in the pursuit of equal rights or acknowledging said specificity while concurrently denying equal rights (Scott, 1988; Eisenstein, 1990).

Drawing parallels from feminist scholarship, Spade (2011: 86-89) identifies analogous challenges in the advocacy for "queer rights," positing that rights are insufficient in addressing the tribulations faced by individuals grappling with "intersecting vectors of harm." Particularly, the contemporary emphasis on rights is critiqued in conjunction with neoliberalism, with Spade expressing profound reservations regarding the efficacy of rights as instruments in liberatory

endeavors. He underscores the creation of "hate crime" legislation, which, by providing substantial financial resources to augment police and prosecutorial capacities, paradoxically designates the police as protectors of queer and trans individuals against violence, even as instances of imprisonment and police brutality witness an alarming escalation.

The tenets of disability theory accordingly afford us the opportunity to posit a parallel contention that the formulation of rights is constructed to favor "able" bodies at the detriment of those deemed "disabled." This tendency, to a considerable extent, arises from the inclination of legal practitioners, moralists, and political philosophers to construe disability rights within the framework of "justice" rather than "freedom." This paper endeavors to advocate for an alternative perspective, contending that a more efficacious approach involves conceptualizing disability rights through the prism of freedom. The argument unfolds by initially presenting a critique of justice as the foundational basis for rights, subsequently asserting a perspective on the interconnection between rights and freedom, and proposing avenues through which adopting a freedom-oriented framework can propel disability rights assertions.

It is imperative to clarify before hand that, in this exposition, the intent is not to repudiate the concept of justice or its pertinence to rights. Acknowledging the pervasive economic, social, and political oppression experienced by numerous individuals globally, it is indisputable that justice retains relevance to rights. Furthermore, justice claims possess substantial appeal in addressing issues related to disability and disability rights. The theme of the 2011 annual meeting of the Society of Disabilities Studies, an interdisciplinary organization encompassing activists and scholars across various disciplines such as English, comparative literature, philosophy, sociology, history, and political science, underscored the significance of moving "Beyond Rights to Justice." This suggests that justice necessitates the consistent and proactive application of rights, which have not been universally enacted or safeguarded.

Consequently, this essay does not advocate for the exclusion of the concept of justice from discussions on rights or from political and moral philosophy as such. Given the inherent interdependence of the "essentially contested concepts"

constituting the core of political philosophy, such a position would be implausible. While freedom and rights exhibit a close relationship, they are not synonymous. Concepts like equality, responsibility, and justice are intricately connected to rights and to each other. The contention here revolves around the prioritization of perspectives: a "justice approach to rights" places justice at the forefront, considering it as the animating first principle of rights, whereas a "freedom approach to rights" prioritizes freedom as the animating first principle of rights. The preference for a freedom-oriented approach stems from the belief that a justice-centric starting point tends to overshadow other concepts, diminishing the prospects for advancing disability rights.

This assessment specifically seeks to target a branch of academic discourse, namely liberal Anglo-American analytic philosophy, which has significantly contributed to advancing our understanding of disability but has simultaneously impeded progress. As a political theorist, the contribution presented herein primarily resides in the theoretical and conceptual domains rather than the applied and practical realms. The focus on liberal Anglo-American analytic philosophy is underscored, acknowledging its commendable attention to disability in recent decades. Nonetheless, it is asserted that the predominance of the notion of "justice" within its discourse has detrimentally affected the interests of persons with disabilities. This dominance, characterized as a "justice infrastructure," has been established by moral philosophers, predominantly influenced by Rawlsian and utilitarian philosophy, often inattentive to the nuanced power dynamics profoundly impacting individuals with disabilities. The aspiration of the political theorist, distinct from a philosopher per se, is to reintroduce the dimension of power into the conception of rights by redirecting attention from justice to freedom.

## **The Intersection of Disability Rights and Justice**

When examining disability rights and entitlements through a justice-oriented lens, philosophical discourse predominantly revolves around key considerations. These include the allocation of resources to individuals with disabilities, whether directly through accommodations, assistive devices, and healthcare or indirectly through scientific research. The distribution of resources raises questions about

which disabilities or illnesses, as well as which assistive devices or technologies, should receive more funding, prompting debates on retrofitting buildings versus increasing budgets for other purposes like libraries.

Entitlement to resources presents ethical dilemmas, such as deciding whether expensive medical care should be utilized to extend the life of a severely impaired infant or directed elsewhere. Similarly, the adequacy of resources sparks discussions on determining the optimal level of support. Responsibility is occasionally brought into the equation concerning just distribution and entitlement, questioning if the disability resulted from "irresponsible" actions.

Within mainstream philosophical perspectives on justice, there is a tendency to adopt a "medical model" of disability. Some philosophers view justice as a mechanism for repairing injuries, accepting the limitations of the built environment and biases against certain cognitive orientations. Notably, John Rawls, a prominent philosopher of justice, limits his understanding of disability to "accidents and illnesses," emphasizing medical care as the means to restore individuals to full societal participation. This perspective is critiqued for misunderstanding the disability experience, portraying individuals with disabilities as tragic figures, dependent and unable to contribute meaningfully to society (Rawls, 1993: 20-184). As Ravi Malhotra maintains, Rawls believes that "examining marginal cases such as people with significant physical or mental disabilities may distract our ability to make accurate moral judgments by 'leading us to think of persons distant from us whose fate arouses pity and anxiety.'" (Malhotra, 2006: 76). From the start, then, Rawls misunderstands the disability perspective, thereby mandating a response that is unreasonable. The notion that blindness or cerebral palsy or spinal cord damage is a supreme loss to the individual, a tragedy that the individual would want to overcome at all cost, constructs the notion of "the disabled" into a tragic figure, dependent, sick, weak, and unable to make any but the barest contributions to the collective social welfare.

The extreme views of philosophers like Peter Singer, who argues for denying costly medical services to severely impaired infants, highlight the potential consequences of such a perspective. He argued that "severely" impaired infants should be denied costly medical services and "allowed" to die, or even

euthanized (Singer, 1993; Singer and Kuhse, 1994). Many disability scholars reject such views, emphasizing the unjust nature of allocating resources based on a perceived inability to achieve full human status due to disabilities. The underlying assumption that impairments diminish a person's humanity and value contributes to the casualness with which philosophers sometimes consider the lives and well-being of disabled individuals.

Even proponents of universal healthcare, such as Norman Daniels (2007), may treat disability as a matter of "bad luck" rather than recognizing it as a potentially valuable difference. This reinforces a medical model rather than a social model of disability, where resource constraints often dictate the extent of entitled healthcare. The emphasis on distributive justice within the medical model may lead to an overemphasis on "curing" disabilities rather than adopting a more inclusive approach, such as installing ramps and curb cuts to address accessibility issues.

The tacit assumption ingrained in societal perceptions is that individuals receive what they merit in a just world, influencing our understanding of entitlements. This belief system, integral to the concept of justice, implies that if an individual sustains injuries in a motorcycle accident due to the absence of a helmet, societal responsibility for their treatment or care may not be obligatory. The rationale behind this perspective lies in the notion that the injurious consequences resulted from irresponsible and risk-taking behavior, constituting a deserved outcome. Although sympathy and acknowledgment of the tragedy may be extended on a personal level, the broader society is not bound by any obligation to allocate collective tax revenues for the individual's treatment or resources, as there is no corresponding "rights claim" against it. Justice, in this context, hinges on the principles of personal responsibility and individual evaluation of actions and their repercussions.

This viewpoint is reminiscent of T.H. Marshall's observation in the mid-nineteenth century, where he highlighted the Poor Law's treatment of the claims of the poor as separate from the rights of citizens (Marshall, 1964: 80). This historical legacy, characterized as a "charity hangover," signifies the degradation of Christian ideals of love and charity into suspicion and denigration of recipients.

The consequence is the implementation of parsimonious and punitive policies, providing little more than subsistence and subjecting recipients to second-class treatment reminiscent of criminality rather than the recognition of citizen rights. This legacy is notably apparent in contemporary debates on welfare reform in developing and certain European countries throughout the latter half of the twentieth century, perpetuating imagery of the undeserving poor.

The attitudes and treatment of disabled individuals are intricately connected to the underlying justice foundations of such asserted "rights." The demand for justice inadvertently perpetuates and relies on the able-bodied perspective that views the disabled as "injured," diminished, lacking, or less. Despite efforts by disability scholars and activists over the past quarter-century to advocate for the acknowledgment of bodily diversity and the restructuring of social institutions to accommodate diverse bodies, the able-bodied perception of disability as a "state of injury" seeking redress persists to this date.

This entrenched perspective has implications even within branches of philosophy that might seem sympathetic to a disability perspective, such as luck egalitarianism. Luck egalitarianism, building upon Rawls's assertion that many aspects of individuals' capabilities and limitations result from chance or "luck," appears, on the surface, to align with the disability argument that emphasizes the universality of disability. However, the uniform characterization of disability-causing "luck" as bad luck reinforces the "otherizing" dimensions of able-bodied thinking about disability. Disabled individuals, as articulated by Elizabeth Anderson, do not seek compensation for the disability itself but advocate for the removal of social disadvantages imposed upon them due to their disability (Anderson, 1999: 334). This underscores the need for a reevaluation of the justice model and a focus on freedom in reshaping societal perspectives on disability.

Undoubtedly, I posit that the central inquiry of justice is encapsulated in the concept of freedom, as assertions of justice materialize in situations where individuals, or specific societal strata, encounter hindrances to the realization of their desires. The discourse on justice is invoked only in response to attempts to impede one's pursuits, constraining individuals and withholding essential resources requisite for sustaining livelihoods, pursuing education, gaining access to physical spaces,



utilizing public transportation, engaging in work or recreational activities, and, in essence, "dwelling in the world." The unjust nature of a situation is characterized by the curtailment of individuals' liberty through diverse means, prompting theories of justice to seek redress for, if not outright mitigation of, the disparate apportionment of freedom resulting from such imbalances in ability.

Notably, Rawls's inaugural principle of justice posits, "Each person possesses an equal entitlement to the most expansive framework of equal fundamental liberties compatible with a comparable array of liberties afforded to all" (Rawls, 1971: 52). This principle underscores an equality of entitlement not to monetary wealth, resources, or power per se, but to freedom. While monetary wealth, resources, and power may serve as instruments facilitating freedom, it is imperative to recognize that freedom constitutes the focal tenet of justice. Although Rawls predominantly delineates a notion of negative freedom, it remains salient that these very resources—monetary wealth and power—exert a profound influence on the aspirations, self-perceptions, and overarching life plans of individuals with disabilities, in accordance with Rawls's formulation.

## **The Interconnection Between Rights and Freedom**

Notwithstanding the delineation of the justice orientation inherent in disability rights, the broader nexus between rights and freedom is a recurrent theme among scholars in the field, albeit not consistently manifested in a favorable light. Certain scholarly works posit a contentious relationship, portraying instances where one individual's rights to a certain entitlement (X) encroach upon another's freedom to engage in a different pursuit (Y). An illustrative case is the attempt by Myriad Genetics to patent the human genome, a venture that posed a substantial impediment to the scientific community's ability to conduct research and the general public's access to pertinent health-related information (Reichmann and Franklin, 1998).

Nevertheless, there exists a corollary perspective that underscores the affirmative correlation between freedom and rights, treating them as nearly synonymous. This perspective posits that conflicts arising from rights are inherently conflicts of freedoms, with the possession of a right inherently implying the possession of a

corresponding freedom. In an exposition on the relationship between liberty and property, Gerald Gaus implicitly acknowledges that rights serve as the means through which individuals negotiate their freedom and property in Western liberal societies (Gaus, 1994). Some scholars go to the extent of conflating rights and freedom, almost collapsing these concepts (Pattanaik, 1994).

Certain scholars emphasize specific freedoms, particularly economic ones, as integral to human rights, while others champion diverse rights such as conscience and speech (Sen and Nussbaum, 1993; Sen, 1999; McGinnis, 1998). Martin contends that rights encapsulate vital interests of individuals, encompassing personal autonomy, participation in self-governance institutions, security, dignity, health, and well-being, all of which are susceptible to specific threats (Martin, 2013: 99). Shue, in his discourse on "basic rights," identifies subsistence and liberty as the foremost rights, rejecting arguments that advocate for relinquishing some freedom to attain the economic development requisite for subsistence (Shue, 1980: 65-67). Kofi Annan's 2009 report, titled "In Larger Freedom - Towards Development, Security and Human Rights for All," utilizes freedom as a conceptual framework to articulate human rights principles (Annan, 2009). Notably, Marshall's conceptualization of social rights posits that the civil component of citizenship comprises rights essential for individual freedom, encompassing liberty of the person, freedom of speech, thought, faith, the right to own property, and the right to justice (Marshall, 1964: 71). In alignment with this perspective, the argument presented here posits that justice constitutes an integral facet of freedom and is subsidiary to it.

The elucidation of "freedom" within these discourses aligns with the conventional understanding, rooted in Isaiah Berlin's concept of "negative liberty" (Berlin, 1971). This viewpoint defines freedom as the absence of impediments, allowing individuals to pursue their interests unencumbered. Consequently, conflicts between rights are construed as clashes between competing freedoms. The principle of "equal liberty," as articulated by classical liberals like Locke and Mill, underscores that unfettered freedom for all necessitates limitations on individual freedom. The adage "my right to swing my arm ends where the other guy's nose begins" encapsulates this ethos, where rights serve as instruments for adjudicating conflicts of freedoms and, consequently, engendering justice.

In the realm of disability scholarship, particularly within the advocacy for disability rights, the predominant conception of freedom adheres to the negative liberty model through the lens of the "social model of disability." This model contends that the designation of something as a "disability" emanates not from an inherent physical condition but from societal factors such as discriminatory attitudes, punitive public policies, and an inaccessible built environment. These societal constructs are deemed impediments to the freedom of disabled individuals to pursue their desires. Although disability arguments challenge and broaden the conventional understanding of barriers to freedom, they still adhere to the fundamental tenets of the individual-centric model of freedom, where impediments are viewed as products of societal relations that necessitate transformation.

The depicted imagery serves to underscore the notion that rights are predominantly individualistic, akin to the concept of freedom. In contrast, justice inherently presupposes a network of relationships and a societal framework, with freedom primarily manifesting on an individual level. Even proponents of collective rights, exemplified by Peter Jones, assert that such rights find their basis in the human right to freedom of association. This assertion holds merit only if the term "human" is construed as referring to individual persons desiring group formation (Jones, 2013: 102). Consequently, while groups may possess rights to engage in collective activities, such as communal religious practices, the activation of rights is contingent upon individual aspirations to partake in such endeavors. The Universal Declaration of Human Rights (UDHR) initiates by affirming that "the inherent dignity and...the equal and inalienable rights of all members of the human family is the foundation of freedom, justice, and peace in the world." Consequently, the document conceives rights as equally fundamental to freedom and justice, asserting a reciprocal relationship wherein freedom constitutes the groundwork for both rights and justice. The UDHR underscores this interconnection by frequently employing the term "freedom" (mentioned twenty-one times) and often treating the phrases "rights and freedoms" as interchangeable or intricately linked concepts. The enumerated specific rights within the declaration pertain predominantly to various freedoms, such as speech and association, many explicitly articulated as freedoms.

This interplay between rights and liberty is notably applicable to the domain of disability too. The category of disabled persons, perceived as an ascriptive group, delineates a distinct set of human differences frequently utilized to curtail individual rights. Accounts of group rights, in many instances, prove problematic when viewed through the lens of disability. While disabled persons possess the right to be free from employment discrimination, this right is invoked when individuals, applying for jobs, face denial solely based on their disability. The disability, marking inclusion in a group, becomes the basis for discrimination, as employers formulate judgments not based on the individual's qualifications (a prerequisite for valid discrimination claims) but on assumptions regarding the capabilities and limitations of "disabled persons." Consequently, multiple disabled individuals may collectively sue the same employer for comparable instances of discrimination.

This individualistic perspective appears to underlie the philosophy of the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD) (2006). Recognizing that disability arises from the interplay between individuals with impairments and attitudinal and environmental barriers hindering their full societal participation, the convention outlines rights to equality under the law, nondiscrimination, equal access to the physical environment, and information and free expression. Although these rights invoke other "essentially contested concepts" like equality, community, membership, and justice, the foundational value underlying these claims seems to be freedom. Notably, the broader movement among disability scholars for "independence" fundamentally rests on the connection of human rights with the ideals of negative freedom, emphasizing freedom from interference and obstacles to individual autonomy.

## **Reconceptualizing Liberty for the Advancement of Disability Rights**

The conventional understanding of freedom undergoes a transformation when examined through the lens of documents such as the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD). Freedom, as articulated in this context, extends beyond the mere removal of barriers, as described in Isaiah Berlin's notion of negative liberty, or the availability of open doors. It encompasses

the recognition that our identities and desires are shaped by a complex interplay of social, physical, epistemological, and moral conditions. The UNCRPD underscores the importance of rights such as "employment and an adequate standard of living," "participation in political and social life," and the right "to live independently and participate fully in all aspects of life." These rights align with a broader conceptualization of freedom known as "positive liberty."

Positive liberty differs from negative liberty by necessitating the provision of resources or conditions essential to exercise negative liberties. For example, reduced tuition for individuals with lower incomes or wheelchair access for those with mobility impairments represents positive rights—rights to positive provisions rather than the absence of interference. In the realm of positive liberty, individual conditions like disability are framed as societal barriers to freedom, necessitating collective action beyond the individual's capacity, aligning with the social model of disability.

Furthermore, positive liberty acknowledges the existence of conflicting desires, requiring individuals to prioritize and make decisions about the value and importance of their desires. In situations where conflicting desires arise, external intervention may be necessary to assist individuals in discerning the true nature of their interests. However, such interventions introduce risks, as history has witnessed instances of others presuming to understand disabled persons' interests better than the individuals themselves (Hirschmann 2013; 2016). Crucially, the notion of freedom articulated here underscores the complexity of desire within social contexts and relations. Questions about why certain desires prevail and how choices are made invite an exploration of the social construction of the choosing subject—individual agents with desires operating within specific social, historical, and institutional frameworks.

The concept of social constructivism, though not extensively explored in disability theory, gains significance in the context of freedom. The variability of the disability experience across individuals may have contributed to this oversight. However, recognizing disability as a social construct involves understanding how ableist ideologies shape perceptions and treatment, ultimately influencing the development of individuals with disabilities. To counteract such negative

constructions, disabled individuals must actively participate in the ongoing process of social construction. Involvement in institutions, practices, and social formations that influence the meanings and opportunities of disability becomes paramount. This engagement ranges from legislative initiatives like the Americans with Disabilities Act Amendments Act (ADAAA) to workplace policies, media representation, and linguistic categorizations.

While positive liberty holds promise for advancing disability rights by deepening critiques of unfriendly environments, it is essential to retain the concept of negative liberty. This dual approach allows for the identification of arbitrary limitations imposed on disabled individuals by societal narratives and the materialization of social formations resulting from these narratives. In the pursuit of freedom and rights, a comprehensive understanding that integrates positive and negative liberty can foster a more inclusive and equitable society for persons with disabilities.

Positive liberty holds significant potential within the realm of disability, especially concerning disability rights. It facilitates a nuanced examination of the manner in which disability emerges as a consequence of an inhospitable, and at times adversarial, physical and social milieu. This perspective enhances advocacy for affirmative resources and universal accessibility by elucidating the constructed nature of the ostensibly "normal" social and physical environment, underscoring that it is not inherently natural or inevitable but rather a result of deliberate societal choices. Concurrently, positive liberty reveals the delineation of this "normality" against, and its exclusionary impact on, the disabled experience.

Furthermore, positive liberty plays a pivotal role in empowering individuals with disabilities to actively contribute to the construction of their own narratives. It accomplishes this by exposing the ideological fallacies inherent in the existing narrative while emphasizing its social construction. These narratives intricately and multifacetedly influence desire, constituting the bedrock of freedom. Nevertheless, within the specific context of rights, the preservation of negative liberty remains imperative. Negative liberty allows for the identification of instances where society capriciously restricts disabled individuals through the

mentioned narratives and the tangible social structures that evolve from, and reciprocally generate, these narratives.

## Conclusion

The historical conceptualization of rights has predominantly aligned with negative liberty, characterized as claims against others, akin to what Ronald Dworkin identifies as a "trump" and Richard Flathman designates a "warrant." Discussions surrounding rights often employ combative imagery, emphasizing adversarial aspects (Dworkin, 1978; Flathman, 1967: 62-161). However, to establish a robust foundation for disability rights, it is imperative to integrate both positive and negative liberty. While commencing with freedom as the basis for rights does not negate the relevance of justice, it does reshape the inquiries posed, the pertinent evidence, and the objectives pursued.

Freedom, within this context, revolves around diversity—the varied desires, needs, and pursuits that define individuality. From a freedom perspective, the recognition of "rights" becomes essential due to differences. The assertion of rights becomes necessary when disagreements arise, typically rooted in contrasting preferences and needs. The focus on sameness in rights discourse obscures the fundamental role of difference, as highlighted by Hirschmann (1999) who views difference as an "occasion for rights."

Acknowledging difference does not confine rights exclusively to the realm of freedom; considerations of equality, power, and justice are pivotal in resolving rights conflicts judiciously. While freedom takes the forefront, justice assumes a complementary role; however, when justice dominates the discourse, distortions may occur. To illustrate, consider a university deliberating whether to allocate funds to retrofit an old building for wheelchair accessibility, accommodating a small number of users, or invest in a cutting-edge "learning center" for the entire campus. Approaching the decision from a justice-oriented standpoint prioritizes numerical impact, potentially leading to utilitarian calculations favoring the larger population. In essence, while freedom serves as the primary actor in the rights narrative, justice must play a supportive role to ensure a nuanced and equitable resolution of rights-related conflicts.

In contrast, commencing with the foundational principle of liberty, particularly emphasizing freedom of access, establishes a more robust foundation for the entitlement to retrofit. All constituents within the academic institution possess an inherent entitlement to access the essential educational resources for which they expend tuition funds, either personally or through earned scholarships. It is imperative to underscore that freedom, though an initial standpoint, is not inherently conclusive in isolation. Subsequent to the assertion of this entitlement based on freedom, considerations of justice can be introduced to ascertain how to fulfill this entitlement and to devise alternative approaches for reconciling competing claims to freedom.

## References

- Anderson, Elizabeth. 1999. "What Is the Point of Equality?" *Ethics* 109, No. 2 (January): 287-337.
- Berlin, Isaiah. 1971. *Four Essays on Liberty*. New York: Oxford University Press.
- Clifford, Stacy. 2012. "Making Disability Public in Deliberative Democracy." *Contemporary Political Theory* 11, No. 2: 211-228.
- Diller, Matthew. 2000. "Judicial Backlash, the ADA, and the Civil Rights Model." *Berkeley Journal of Employment and Labor Law* No. 21: 19-52.
- Dworkin, Ronald. 1978. *Taking Rights Seriously*. Cambridge: Harvard University Press.
- Eisenstein, Zillah. 1990. *The Female Body and the Law*. Oakland, CA: University of California Press.
- Flathman, Richard. 1967. *The Practice of Rights*. London: Cambridge University Press.
- Gaus, Gerald. 1994. "Property, Rights, and Freedom." *Social Philosophy and Policy* 11, No. 2: 209-240.
- Hirschmann, Nancy J. 1999. "Difference as an Occasion for Rights: A Feminist Rethinking of Rights, Liberalism and Difference." *Critical Review of International Social and Political Philosophy* 2, No. 1 (Summer): 27-55.
- Hirschmann, Nancy J. 2013. "Freedom and (Dis)Ability in Early Modern Political Thought." in Hobgood, Allison and David Wood. (eds.) *Recovering Disability in Early Modern England*. Columbus, Ohio: Ohio State University Press.
- Hirschmann, Nancy J. 2016. "What's Right With Positive Liberty: Agency, Autonomy, and the Other." in Levy, Jacob and Daniel Weinstock. (eds.) *Reading Charles Taylor*. Montreal: McGill-Queens University Press.
- Jaggar, Alison. 1983. "Feminist Politics and Human Nature." *Journal of Social Studies* 26, No. 3: 42-59.
- Jones, Peter. 2013. "Groups and Human Rights." in Holder, Cindy and David Reidy. (eds.) *Human Rights: The Hard Questions*. New York: Cambridge University Press.



Malhotra, Ravi. 2006. "Justice as Fairness and Critical Theory." in Diane, Pothier and Richard Devlin. (eds.) *Critical Disability Theory: Essays in Philosophy, Politics, Policy and Law*. Vancouver: UBC Press.

Marshall, T.H. 1964. *Class, Citizenship and Social Development*. New York: Doubleday.

Martin, Rex. 2013. "Are Human Rights Universal?" in Holder, Cindy and David Reidy. (eds.) *Human Rights: The Hard Questions*. New York: Cambridge University Press.

McGinnis, John O. 1998. "New Agenda for International Human Rights: Economic Freedom." *Catholic University Law Review* 48, No. 1: 1029-1034.

Nussbaum, Martha, and Amartya Sen. 1993. *The Quality of Life*. Oxford: Clarendon Press.

Pateman, Carole. 1988. *The Sexual Contract*. Palo Alto: Stanford University Press.

Pattanaik, Prasanta K. 1994. "Rights and Freedom in Welfare Economics." *European Economic Review* 38, No. 3-4 (April): 731-738.

Rawls, John. 1971. *A Theory of Justice*. Cambridge: Harvard University Press.

Rawls, John. 1993. *Political Liberalism*. New York: Columbia University Press.

Reichman, J.H. and Jonathan A. Franklin. 1998. "Privately Legislated Intellectual Property Rights: Reconciling Freedom of Contract with Public Good Uses of Information." *University of Pennsylvania Law Review* 147, No. 1: 876-970.

Scott, Joan. 1988. "Deconstructing Equality-Versus-Difference: Or, the Uses of Post-structuralist Theory for Feminism." *Feminist Studies* 14, No. 1 (Spring): 33-50.

Sen, Amartya Kumar. 1999. *Development as Freedom*. New York: Harvard University Press.

Shue, Henry. 1980. *Basic Rights: Subsistence, Affluence, and U.S. Foreign Policy*. New Jersey: Princeton University Press.

Singer, Peter, and Helga Kuhse. 1994. "Bioethics and the Limits of Tolerance." *Journal of Medicine and Philosophy* 19, No. 1: 129-145.

Stark, Cynthia. 2007. "How to Include the Severely Disabled in a Contractarian Theory of Justice." *The Journal of Political Philosophy* 15, No. 2: 127-145.

Sulmasy, Daniel P. 2009. "Dignity, Disability, Difference, and Rights." in Ralston, D. Christopher, and Justin Ho. (eds.) *Philosophical Reflections on Disability*. New York: Springer.

UNCPRD (2006), *Convention on the Rights of Persons with Disabilities*, UN Doc. A/RES/61/106 Annex I, [Online: web] Accessed 2 Feb 2017, URL: <http://www.un.org/russian/document/convents/disability.html>.