

Disability and the problem of suffering

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I am grateful to Philip Reed for his article 'Expressivism at the Beginning and End of Life'. His piece compellingly demonstrates the import of expanding analyses concerning the expressivist thesis beyond the reproductive sphere to the end-of-life sphere. I hope that his intervention spurs further work on this connection. In what follows, I want to focus on what I take to be moments of slippage in his use of the concept of disability, a slippage to which many disability theorists succumb. In short, I argue that there are crucial moments in his argument where Reed runs together cases of disability that should be kept distinct—at minimum for the context in which he discusses them. Namely, forms of disability the suffering of which justice can eliminate versus those that 'no amount of accessibility and social justice could eliminate'.¹

Disability studies scholars and philosophers of disability have long noted that certain types of disability are often 'left out' of disability theorising. The list of such conditions typically includes juvenile Tay-Sachs, Lesch Nyhan, Edwards and Patau syndromes, anencephaly and other paediatrically fatal conditions, and various conditions involving severe chronic pain. It is not just that such forms of disability often fail to fit dominant theoretical models or substantively appear on the radar of theorists. Disagreements over the meaning, definition, or concept of disability have progressed to the point that multiple scholars argue that the term 'disability' simply cannot be coherently unified.^{2,3} On such variantist approaches to disability, to say, as Reed does, that targeting 'individuals suffering from either a terminal or incurable illness...at least implicitly target[s] disable individuals' (6) and that the laws pertaining to physician aid in dying identify 'the class

of people to legally die by suicide...to be disabled people' does not hold. The shift from the subset of impaired conditions in question to claims about disability more generally relies on a contested conglomeration of distinct experiences purportedly captured by the term 'disability.' This is not to say that there are not similarities across the cases in question—it is to say that the differences that *make* a difference in the situations under discussion and for the argumentative purposes at stake are being inappropriately submerged under a larger concept that fails to capture that very difference.

This issue is exacerbated by the discussion of the issue of causing disability, specifically on page 15. While Reed rightly engages Elizabeth Barnes' seminal work on the mere-difference view of disability, he does not do justice to her arguments in *The Minority Body*.⁴ As she elaborates at length in chapter 6 of that book, 'Causing Disability', the mere-difference view *can* accommodate arguments against causing disability (including in the context of his discussion), contra Reeds' claims to the contrary (15). What the mere-difference view entails is just that 'it's never the case that causing a non-disabled person [or, I would extend her argument to say, fetus] to be disabled is wrong *simpliciter*'.⁵ Note that Barnes' careful analysis here draws on her sensitivity to the polysemy of disability (hearing that word in an existential and not merely linguistic sense). On the mere-difference view, there may be certain *sorts* of disabilities or particular *cases* of disability—keeping in mind questions of context and not simply condition—where causing it is indeed wrong. The mere-difference view only commits one to withhold judgment about norms concerning causation of disability prior to having information about the sort of and context in which someone with a disability will come to exist.

Lastly, I want to suggest that the distinction between reproductive and end-of-life domains is too coarse grained to move forward discussions concerning the expressivist thesis and related debates.

We should, at minimum, distinguish between reproductive, paediatrically fatal, terminal (relative to any point across the life course) and end-of-life cases. It seems to me that not treating 'paediatrically fatal' and 'terminal' conditions in their own category is invariably going to lead to problematic overgeneralisations. To be honest, I find those four categories still too broad, for it seems to me that even a more ideal categorisation will run the omnipresent risk of mistaking types for tokens (as well as the reverse). But this is not the place to make that detailed of an argument. In short, as philosophy of disability continues to develop, greater precision about cases and categorisation and greater care when we invoke disability without qualification is, it seems to me, paramount.

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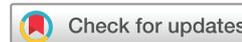
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- 3 Timpe K. Denying a unified concept of disability. *Journal of Philosophy and Medicine*. In press.
- 4 Barnes E. *The minority body*. New York, NY: Oxford University Press, 2016.
- 5 *Ibid*, 166, my italics.

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