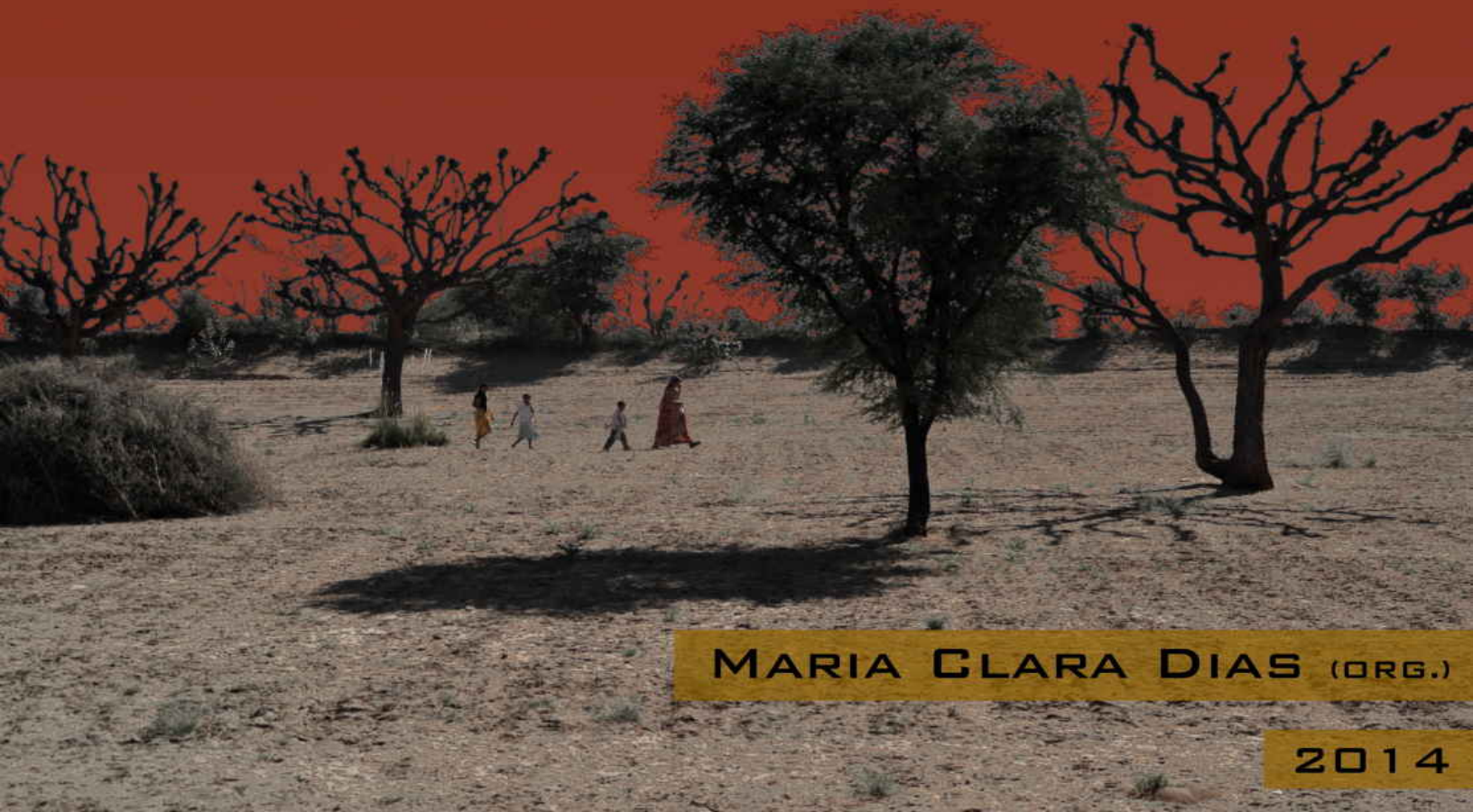
FUNCTIONINGS APPROACH

for a more inclusive moral point of view



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Introduction

This book is an attempt to systematize a moral conception that allows the expansion of the scope of those concerned or of the object of our moral consideration. To do this, I initially attempt to list the diverse theoretical aspects inherent to the moral discourse and to harmonize their fulfillment with our everyday intuitions about what we consider right or wrong, just or unjust, valuable or worthless. Such intuitions will be adopted throughout the entire book as a guide towards the construction of a moral approach which is more coherent with our universe of beliefs and desires and, consequently, with the reasons that lead us to seek a moral form of life. This is about a moral and political approach oriented toward the fulfillment of the basic functionings of diverse individuals or functional systems, here called the *functionings approach*.

With this purpose, the book was divided into two parts: a theoretical part and a practical one. The latter was elaborated with the participation of various authors.

The first four chapters are, therefore, dedicated to the elaboration of the theoretical framework.

In the first chapter, I analyze the main characteristics attributed to our moral judgments, the philosophical attempts to rescue their claim of validity and finally the way in which we traditionally include or exclude something or someone as an object of our moral consideration.

The second chapter is dedicated to the discussion of the principal contemporary approaches to justice and to the elaboration of an alternative approach that may respond to the following questions in a way that is more inclusive and coherent with our moral intuitions: (1) what must we equalize/what do we want to equalize; (2) to whom or to what does our conception of justice apply and, finally (3) who has the responsibility to implement it?

The third chapter is totally dedicated to an attempt to expand the context of morality to two components of our conception of good live left out of the main philosophical discussions about the topic up to now, that is, the environment and the work of art. I intend to defend a non-instrumental

way of including them in our universe of moral consideration that does not depend on the reference to a metaphysical ontology or to a transcendental worldview.

Closing out the phase of constructing the theoretical framework, the fourth chapter aims to reinforce the proposed characterization of the object of our moral consideration, that is, the characterization of an individual as a functional system, and to analyze the consequences of such an approach for us to understand who we are and how we must act or live.

The six remaining chapters deal with the application of the proposed approach in different contexts of knowledge and of human beings acting as professionals, institutional representatives and/or politicians and common individuals.

The fifth chapter opens the discussion in the context of health. It investigates a conception of health and of the health-disease process that is more compatible with the functionings approach.

The sixth chapter explores the application of the functionings approach in the context of mental disability.

The seventh chapter analyzes the suitability of using the functionings approach for the assessment of the *sex reassignment process*.

The eighth chapter turns the focus toward education and analyzes the functionings approach as a matrix for us to rethink the training of students in dentistry programs.

The ninth chapter introduces the topic of justice in the context of recognition and seeks an approach to justice that may better respond to feminist demands. In this trajectory, the author of the chapter adopts the *functionings approach* as the universalist conception most compatible with a non-essentialist ecofeminist coalition policy.

The tenth chapter resumes the issue of the environment, this time through a concrete example, and analyzes the best way of justifying the inclusion of environmental issues in the scenario of international discussions.

For the elaboration of the chapters that make up the second part of this book, I relied on the valuable participation of colleagues and students who, in addition to providing specialized knowledge of their respective topics, were willing to undertake a “litmus test” of the theory, that is, to test

its efficacy in the resolution of practical problems faced by real individuals in real societies. Without this contribution, the functionings approach would run the risk of remaining an empty theoretical construct, a mere philosopher's dream. These authors, and many others – who due to constraints of time and/or space were not able to incorporate their contributions to this book –make my dream a reality and, more than that, share my values and my most important moral convictions. To them I owe the positive source of motivation to carry on. Only those who really believe in a more expansive view of justice are capable of eradicating the intense feeling of indignation that everyday institutional and individual practices may cause. With them, I renew the invitation to conceive of and create a more just society, for everyone.

Chapter I

Ethical foundations

Maria Clara Dias

This chapter seeks to introduce a philosophical framework for advocating a moral and political perspective that is concerned with respect for and flourishing of the basic functions of the several existing forms of life. In this sense, I intend to start with a brief explanation of the various elements that make up and characterize our moral discourse. This path will lead us to the issue of grounding our moral judgments and characterizing those concerned by our moral discourse. In response to this latter point, I intend to list some criteria that we currently use when assigning moral value to other individuals. In conclusion, I intend to explore a specific aspect of our nature, which at the same time may serve to characterize and distinguish all existing entities—namely, our characterization as (more or less complex) functional systems. My hypothesis is that, by focusing our moral concerns on this aspect, (1) we will be able to broaden our moral discourse to better restore its pretension of universality, and (2) we will be more apt to incorporate and respond to each being's specific demands, be they human or not.

1. Characteristics of moral judgments

Moral judgments are traditionally characterized not by expressing the way things are but, rather, how they should or we would like them to be. They thus distinguish themselves from the so-called descriptive or assertive judgments, through which we report our beliefs about objects in the external world or our own psychological states. Descriptive judgments seek the truth; they split the world into true and false states of affairs and raise what we call truth or veracity claims. Moral judgments are basically characterized as those that dictate or determine how one should act or which state of affairs we should desire. They are, therefore, prescriptive judgments.

Descriptive judgments are those corresponding to propositions of the type "It is sunny today", "The car parked in front of my house is red", "I am afraid of snakes", or "I would like to eat some chocolate". Everyday examples of prescriptive judgments would be propositions of the type "One should not gratuitously inflict suffering on other beings," "It is wrong to lie," "We should chew with our mouths closed," "One should not smoke in indoor public places," and "One cannot score a goal when one is offside."

Assuming that the distinction between descriptive and prescriptive judgments has been made clear, I now propose that we focus on the latter. Let us then begin with the examples given above. They all prescribe or indicate what would be wrong/forbidden or which would be the correct/adequate conduct. In this sense, they all involve a certain value element and separate the possibilities for action into good/right versus bad/wrong. All prescriptive judgments express social conventions or rules. How can we then distinguish among them? This distinction is given in the type of rule expressed in each case.

Some prescriptive judgments express cultural conventions, such as "chewing with one's mouth closed"; others express legal rules, such as "not smoking in indoor public places"; and others set game rules, such as "one cannot score a goal when one is offside." There are, however, propositions that seem to be much less specific and about which we believe everyone should be in agreement. Falling into this case are our first two examples: when we say that "gratuitously inflicting suffering on other beings is wrong" or "it is wrong to lie," we believe that everyone should agree with us. In other words, we attach to our judgment a claim of universal validity, even if we cannot concretely justify this claim.

Now analyzing only this specific group of propositions, I would also say that propositions of this type—i.e., propositions that apparently raise a universal claim of correctness—reveal or awake specific feelings in us. When expressed this vaguely, this statement does not appear to be controversial because, until now, I have merely been noting the relationship between some of our judgments and feelings. As should be clear by now, this set of propositions is the one corresponding to our moral judgments. The statement in question would then be that moral judgments are related to feelings. The controversial aspect, which I do not intend to examine in greater depth, has to do with the role that feelings play in the realm of

morality. There are those who advocate that moral judgments are expressions stemming from our feelings of approval and disapproval. There are also those who, in spite of their rejection of this expressivist view (Blackburn, 2006) of moral judgments, still recognize the importance of feelings as source of motivation or as criterion for the identification of a rule's moral character.

Feelings such as guilt, resentment, and indignation were given special attention first by Strawson (1974) and, later, were characterized by Tugendhat (1994) as indicators that a rule has been violated—a rule with which everyone, not only the agent but all involved, would identify themselves. Feelings such as, for example, the loss of self-esteem and guilt would also be, according to Tugendhat (1994), indicative of a rule's internalization and would thus correspond to an internal sanction. If, when violating legal rules, a game's rules, or cultural rules, we will receive an external, social sanction; when the violated rule is a moral one, it is our own feelings that punish us via the generation of guilt, the manifestation of regret and loss of self-esteem or self-love.

The emotion of compassion or sympathy is perceived by Hume (Hume, 1975a and 1975b), Adam Smith (Smith, 1976), and utilitarians from all periods[1] as a moral basis from which we assume duties towards others. I shall return to this point later.

Basing a moral proposition's imperative character on feelings has, traditionally, been considered not only a dangerous task but also a flawed one. For Kant, for example, moral duty should be capable of suppressing all sensuous inclinations and, as a consequence, any feeling of pleasure or displeasure arising from the sensuous experience (Kant, 1908). This abstraction of sensuous contents is responsible for the first formulation of the Kantian categorical imperative—i.e., the principle according to which the contents of a rule may only be recognized as being moral when they can be universally accepted. The principle of universalization would then work as a criterion by which we can identify the agent's impartiality—in this context, the agent's freedom regarding her or his sensuous motivations.

Moving beyond Kantian rigorism, other authors, such as Habermas and Tugendhat, reject feelings as motivational bases for moral action, considering that, by using them in such a manner, we would be giving up the prescriptive, mandatory, or imperative nature of morality. With regard to

feelings, we either have them or we do not. They can be neither imposed nor demanded. Conversely, we want to be able to demand that moral rules or agreements be respected. If we base ourselves on feelings, how could we justify such demands? The mandatory nature of a moral principle and its alleged claim of universality call for some type of specific grounding or, better still, justification.

2. From the moral of authority to a critical approach toward the justification of morality

To act in accordance with a moral principle may, in some cases, require us to act against our own particular wishes or interests. How can we then explain how the prescriptive nature of a moral proposition may have some power over us? From where does the authority claimed by such principles come?

We can imagine an answer of the following type: "because they reflect the divine will, the will of a ruler or of any individual in whom we recognize some authority—say, our parents, teachers, idols, and such." In this case, recognizing the power that a moral principle exerts over us is anchored to the belief in a transcendent entity and/or, quite simply, the recognition of an authority. This formula, although fragile, may reflect the way in which humankind in general and each one of us in particular has been, little by little, initiated in the practice of morality. However, in this large web in which humankind's history is often entangled with the story lived out by each of us, time almost always plays the role of the villain who corrodes beliefs, casts heroes down and, finally, hurls us into adulthood with the demand that we apply a critical and independent attitude toward our own actions. However, where do we then seek the voice of authority?

Adulthood, as people say, is the age of reason. The previously transcendent or personified authority now becomes immanent, or rather, it becomes part of the process through which we autonomously ponder and arbitrate. In this sense, the popular saying conveys no more than the central element of the Kantian philosophical proposal: the moral agent is that which acts freely, according to its own rationality's precepts. The ingenious solution of seeking morality's groundings in the freedom and rationality of our own actions is thus born.

In his *Groundwork of the Metaphysics of Morals*, Kant defines freedom as our ability to abstract ourselves from all sensuous incentives and let ourselves be guided solely by the imperative of reason (Kant, 2004). When we remove any and all sensuous/empirical/subjective content from the norms that guide our conduct, all that remains to choose as norms are those principles that can be equally recognized by all. To assess the moral value of a norm, we must submit it to what Kant calls the *Principle of Universalization*. Moral norms will then be principles by which to determine one's conduct that may be recognized as being universally valid. The recognition of such principles will be made based solely on a formal criterion—i.e., its ability to satisfy or not satisfy the *Principle of Universalization*, without need for any investigation into the possible consequences of actions taken or the norms adopted.

In his *Critique of Practical Reason*, Kantian argumentation passes through the following stages. Firstly, one must recognize being conscious of one's actions. This means being capable of reflecting on oneself. However, if we are capable of reflection upon our actions, we should be equally capable of justifying them. An action must be justified based on norms. Norms, in turn, can only be justified based on a principle—namely, the *Principle of Universalization of Maxims*. It follows from this that, by accepting one's ability to act self-reflectedly, we commit ourselves equally to act in accordance to moral principles—i.e., to norms that can be recognized as valid by all.

Should we wish, for example, to determine whether our decision to withhold payment of our taxes due to the government is morally acceptable, we should ask whether we can equally desire to universalize such conduct —i.e., desire that all others should act in the same manner. Hence, the payment of taxes aims to secure certain benefits that we would not like to give up. Even if our individual interest is to be exempt from such an obligation, we cannot presume that the same may hold for all others because this would extinguish taxes, which would then suppress said benefits. This proves that our interest in this case is purely individual and cannot be universalized without losing the benefit we wish to obtain through said taxes—a benefit that justifies, for us, the very existence of taxes and that they not be suppressed. To wish for the universalization of our conduct can, therefore, be interpreted as a form of self-contradiction.

However, why is it that we cannot adopt a cynical attitude regarding all this? We might simply let others believe that we accept and follow the rules but continue acting according to our own interests. In this manner, by acting as an exception to the rule, we would benefit twice as much. That means, why being capable of reflection—i.e., of rationality—must contain in itself the commitment to moral action—namely, the adoption of an impartial, universal point of view regarding the rules that determine our conduct and the possible consequences of their application, the commitment with a point of view that take into equally in consideration the perspectives of all those involved? Seen in this light, Kantian grounding seems to be committed to a not-at-all trivial concept of reason, which therefore compromises its plausibility.

An analogous attempt at grounding was proposed by two German philosophers: Apel and Habermas. In Habermas' work *Moral Consciousness and Communicative Action*, the Kantian concept of *pure practical reason*, the capability of determining one's own will, is replaced by the concept of *communicative reason* (Habermas, 1983). Our ability to reflect on our actions gives way to the ability to integrate a rationally grounded discourse. The principles underlying this discourse are called Principles of *discourse ethics*.

Habermas describes communicative action as a form of interaction in which participants commit themselves beforehand to some given rules, without which communication itself would be jeopardized. Its antithesis would be what is called *strategic action*, in which every procedure is solely evaluated considering its efficacy in reaching the desired goals. The rules that make rational discourse possible are those that characterize an ideal speech situation—i.e., a situation comprising purely rational agents, all in equal standing. The principles of the ideal speech situation ensure that only recognition of the coercive power of “good arguments” will allow an agreement between dissonant opinions to be reached. Such principles should, therefore, prevent elements that are external to the discourse from interfering with the course of the argumentation.

When he clarifies the rules assumed in any and all rationally grounded discourse, Habermas intends to show that, upon taking part in the discourse and, through this, accepting the rules of argumentation, our interlocutor commits to the Kantian principle of universalization itself. In

other words, Habermas intends to prove that the principle of universalization is a basic rule or a constitutive principle of argumentation itself. This being the case, all those who agree to participate in the discourse already assume such a principle. Joining the discussion and rejecting said principle would characterize what we call *performative contradiction*—i.e., a situation in which our very actions contradict the contents of our statements.

The same issue previously raised by Kant appears here: why should we accept that being rational, now in the sense of being capable of participating in a rational discourse, already commits us to accepting some moral principle? Would Kant or Habermas be capable of questioning Hitler's rationality, his power to coherently ponder the choice of means that would be most adequate to his ends, however immoral his acts may have been?

In short, we could say that the solution proposed by Kant[2] and seconded by several contemporary authors, such as Tugendhat, Habermas, Scanlon, Gauthier and Rawls, among others, is resorting to rationality[3]. To Kant and to his followers, even if less strongly so, the mandatory nature of a moral principle resides in the reasons supporting it. Reasons would not be the same thing as motives but, instead, are identical to rationally valid arguments. The action, or the adequate moral principle, would be that which best expresses our rational demands. "Our," here, means "of all rational beings."

When they establish the criteria for correctness of a moral proposition, these authors also seem to determine who the moral agents are. If the moral agents are rational beings within the described standards—i.e., capable of providing and assessing arguments—then we have before us a moral perspective in which other beings, less or not at all rational, would have their moral value or recognition determined by the supposed rational agents. A new issue rises from this: based on which criteria do the rational agents delimit the scope of morality or the boundaries of that which, from now on, we will call our "moral community"?

3. On the criteria for attribution of moral *status* and/or value

The most evident alternative seems to be the criterion of reciprocity or symmetry. According to it, the moral community would consist of beings

who are all equally capable of establishing reciprocity relationships. In a symmetric relationship, the agent/subject and the object of morality may have their roles swapped without the swap compromising the relationship. The parts would, therefore, both equally consist of rational beings, capable of rationally manifesting their purposes and interests and defending them before an equally qualified audience. The inclusion of any other being's purposes or interests could only be indirectly defended, given that these must be instrumentalized to promote the agents' interests, or else would depend exclusively on a collective, altruistic attitude.

A second alternative would be the adoption of the criterion of "belonging" to a collectivity. In this case, the rational agent recognizes that the beings with which it maintains asymmetric relationships, such as a relationship of dependence, are also object of moral consideration. These beings are, therefore, within the boundaries of the moral community, which grants them a moral *status*, even if hierarchically inferior.

This perception of what it is to be part of the moral community may explain why it seems trivial for us to acknowledge children, the mentally ill, and other human beings as objects of moral consideration. After all, they are under our care and protection. With them, we share experiences and spend a significant part of our lives. With them, we build what we are in the present and plan our futures. In this sense, we usually include as objects of our moral consideration even those human beings that do not yet exist and, perhaps, will not come to exist. We think of the future of our grandchildren when our own children are still young. We idealize a better world for generations that we will not come to know. This apparently not-very-rational projection of our own interests onto the interests of other human beings is simply part of our form of being in the world; apparently, no rational agent can avoid recognizing the evidence of such experiences.

Recognition via belonging can also be extended to non-human animals. Through this, we demand, just as trivially, moral consideration for our pets. In many cases, they are our greatest companions. Dogs and human beings, for example, have already established a bond that no one seems to question anymore. What is surprising in these cases is that we often cannot extend our moral consideration beyond the specific object of our bond. In most cases, our pet is part of our family, but the neighbor's pet is just another dog or cat that deprives us of our sleep. We do not believe we owe

them the same consideration, even if we know they belong to our collectivity. Respect for other people's pets is often derived from our respect towards what would be recognized as the object of another human's esteem. These cases, however, are merely distortions, and by eliminating them, we could easily reject that the criterion being applied is truly that of belonging.

A third alternative, which evidently is not incompatible with the remaining ones, is the attempt to identify a common trait or attribute in all beings that are part of our ideal moral community. The advantage of this alternative over the preceding ones is that it can be accepted by the remaining alternatives while being more comprehensive, thereby negating the characteristics considered by the previous alternatives and instead resorting to something more basic. In that sense, we could reject rationality and belonging as foci for the identification and delimitation of our moral consideration universe and resort to something even more general that allows us, through its generality, to reestablish the claim of universality in our moral judgments. By selecting something more basic as a focus, we also break with the moral hierarchy bestowed on allegedly rational beings. What remains, however, is to ascertain what this more basic and broadly shared aspect might be. This question leads us directly to the empirical investigation into the various existing forms of life which, more or less explicitly, have been progressively incorporated into our moral universe.

4. The moral community: how to identify those included

As we have already seen, one of the most promising characterizations of the concerned individuals is that which recognizes our nature as rational beings. Rational beings are capable of providing arguments, verifying hypotheses, analyzing others' arguments, and deliberately basing these on their own ponderings. In a Kantian sense, they are capable of conducting, through this process, the abstraction of all sensuous forms of attachment and letting themselves be guided by a formal principle of reason. In so acting, they impose a new order on the natural world: an order of conduct dictated by the agent himself or herself, as a being free from sensuous determination. We will refer to this ability as the autonomy or power of self-determination. Beings capable of determining themselves choose their own ends. Recognizing these beings' "nature" or "essence" means to recognize them as self-determined beings, authors of their own lives or, in the words of Kant, ends in themselves. Based on such

considerations, it thus arises, in Kant, that which—up to the present day—imposes itself as moral principle par excellence—namely, the categorical imperative in its second formulation: the consideration or respect for such beings as ends in themselves. With this, it is morally prohibited to instrumentalize, to coerce, or to fortuitously impose heteronomous obligations and goals to beings capable of self-determination.

It is not my intention here to go into the issue of whether it is reasonable or not for us to so vehemently associate rationality to autonomy and, more importantly, to associate autonomy with freedom from any and all sensuous determination. We may adopt a contemporary version of this principle in the form of the non-instrumentalization of beings capable of deliberating their ends (Tugendhat, 1984) or the principles that establish an ideal speech situation, for individuals who are capable of joining a rationally grounded discourse (Habermas, 1983). We may further interpret rationality and the ability to autonomously judge as a necessary condition for establishing symmetric contractual situations. What I want to emphasize is that the choice for rationality or the power of self-determination as basis for determining moral conduct and principles delimits the scope of morality to those beings that are capable of manifesting such an ability. Although this may sound quite familiar, I would just like to note that one such interpretation of morality excludes a large proportion of the beings with whom we maintain relationships, be they human or not.

To summarize, if we eliminate the rhetorical power of these formulations and take this approach seriously, according to which our objects of moral consideration are the beings that are capable of choosing their own ends—i.e., authors of their own life narratives and conscious beings that can establish their own plans for life— consequently, we must discard the possibility of incorporating as objects of moral consideration babies, the mentally disabled, senile individuals, future generations and, until the contrary may be proved, our pets and the great majority of non-human animals, among others. In reality, in a world of scarcity and economic dependency in which we live there are enormous contingents of human beings who will never be capable of exercising autonomy. If the exclusion of these people causes in us repulsion and indignation, then we must take our sentiments seriously and seek something more basic that will bring us closer and liken us to all of these beings. The most frequent alternative is that already noted by Hume (1975a and 1975b) and the classic

utilitarians[4]—namely, the vulnerability to pleasure and pain. According to Hume, right or virtuous attitudes or qualities are those that maximize individual or collective pleasure while minimizing pain. Wrong or vicious actions or qualities would be those promoting individual or collective displeasure. To formalize the choice of vulnerability to suffering and pleasure as a characteristic of all those who we believe worthy of consideration, the moral principle par excellence—i.e., the universal principle upon which we judge morality, justice, or the correctness of our conduct, our norms or our society as a whole—is now that which prescribes the maximization of pleasure and minimization of suffering of all those concerned as well. What was formerly called the utilitarian principle underwent several transformations in its history until it arrived at the version suggested by Singer: the maximization of preference interests (Singer, 1993). In this approach, one recognizes that all sentient beings—i.e., all those that have awareness of pain—have basic interests, among which can be recognized the interest of living a life as free from suffering as possible and, furthermore, as full of pleasure as possible. In this case, our moral commitment would be to promote the preferential interests of all sentient beings.

Critics of utilitarianism as a whole and of Singer in particular have conducted some thought experiments to demonstrate the fragility of this suggested criterion. The apparent idea of individual sacrifice in favor of the collectivity's or majority's well-being violates the Kantian perception that each individual should be considered as an end in itself—i.e., the *principle of non-instrumentalization*. Thus, utilitarians are described as those who sacrifice the life of a healthy individual to save the lives of several individuals who need organ donations or as those who would impose restrictions on their own quality of life to promote more the basic interests of other individuals. According to the critics, utilitarians would be violating the sacrosanct, consecrated right to life in the name of individual and/or collective well-being. At the same time, they would impose on their followers a demand for sacrifices that are "super-human" or that at least surpass what we are used to accepting as reasonable[5].

Even though they bear great weight, these criticisms seem easily refutable to me. First, as regards the right to life, it seems difficult to imagine what would be the demand expressed by such right, if we do not understand life as qualified life—that is, as the right to a minimally

satisfactory, pleasurable, and fulfilled life. Second, as regards sacrifice, in general, of the individual's well-being in the name of a majority or collective, it seems that the notion of "sacrifice" derives its strength from a false dichotomy between individual interests and collective well-being. Our most basic interests might be so engendered by our collectivity that we could not possibly conceive our self-realization without taking into account our contribution to the collective well-being or to the implementation of some notion of global justice. In reality, some of us may have high expectations regarding what a satisfactory life may be, committing our realization to the ideals of a more inclusive, egalitarian moral society and to the construction of an environment that is more favorable to the realization of the many forms of life. A reply to this reality would not take long: "If you make your own well-being dependent on the well-being of humankind, or worse, on the well-being of all sentient beings, you will never attain it." This may be true generally, but if our commitment to the well-being of other beings is not a matter of rational choice but rather, genuinely, something that is imposed on us by our feelings towards others—something that involves both our compassion toward the suffering of others and our self-esteem in the face of our effort to contribute to improve the quality of life on the planet—all we can do is aspire to always approach this ideal and, through this approach, achieve self-realization.

With the answers just provided, I ended up endorsing part of Singer's proposal. However, indirectly, I have indicated a third alternative that seems more interesting to me because it is more inclusive. By focusing on the preference interests of sentient beings, Singer delimits the scope of our moral consideration to sentient beings. This observation is less a criticism than an ascertainment of the limits in his approach. The fact is that, if the reasons by which we include other beings as objects of moral consideration are indeed related, as I have described above, to our feelings toward them—to a given notion of what a fulfilled, personally identified, qualitative valuable, and satisfactory life might be for each one of us and for each agent in particular—then I do not see a reason to limit our scope of those involved to sentient beings. Morality is a human construct, but this does not preclude that we extend the values and principles that characterize it to all beings with which we relate and to whose prosperity we relate our ideal of a full life.

The third alternative is, therefore, that we chose as foci for our concept of justice the basic functionings of each existing functional system. It is unavoidable, here, to recognize an Aristotelian view of morality itself. The notion of what an ethical life may be is not restricted to the recognition of norms that determine my conduct relative to another, but rather to the way I plan my own life and seek to fulfill it.

The caricatured *individual I* of modern times is replaced here with the *I* that is concretely constituted by its social practices, the *I* whose identity is the fruit of a complex set of relationships. Thus, neither is it independent from the other nor is it determined by belonging to some particular group. We are the fruit of a complex set of identifications, and this makes every one of us a singular being with demands shared by several beings. Under this focus, what we seek from a moral point of view is that each of us may fulfill as much as possible (meaning, to the fullest) one's life project. This is a project that no longer needs to be interpreted as a rational choice made by beings with the power of self-determination; instead, it may simply be understood as the realization of a functional system in all its vigor.

5. A brief history of the notion of the functional system:

As we have seen, I have selected the notion of a functional system as an individuation criterion for those concerned by our moral discourse—i.e., as a means to identify the object of morality. However, what exactly is a functional system? If familiarity with the usage of an expression does not necessarily make it unequivocal, then the lack of familiarity certainly may throw its meaning into hazy, almost mysterious and enigmatic terrain. Because of this, allow me to briefly digress to describe the way in which I progressively made myself familiar with the notion of the functional system, eventually incorporating it to the scope of my investigations of morality.

If my concern with the use of expressions, aimed at making their meaning clear, is something I owe to the philosophy of language—and more in particular to Wittgenstein—I owe the notion of the functional system (as I mean it here) to my brush with the philosophy of mind. One of the central problems in the philosophy of mind is to provide us with a characterization of the mind that makes it compatible with the materialistic convictions of the present day—more specifically, with the conviction that

everything that exists belongs to the physical world or is in a network of causal relationships with the objects of the physical world. In this light, it becomes necessary to understand the mind to include it and make it a part of the physical world, thus avoiding ontological dualism and all its shortcomings. If the mind is considered a distinct entity or, better still, if we wish to maintain the Cartesian belief that we are simultaneously both a thinking substance—a mind—and a physical substance—a body—we must then find an explanation that makes plausible our conviction that there is some causal interaction between mind and body. This is the case because—as Descartes himself admitted—there can be no causal interaction between ontologically distinct entities. One must then introduce the figure of some pineal gland, through which the mind becomes corporeal, or of some transcendent entity that may move the two substances in parallel, with the precision of a watchmaker, thus preventing us from realizing that both are simply programmed to simulate an interaction. I do not, of course, intend to overextend myself on this issue, something I have done previously (Dias, 2012), but only to extract from this what is of interest to us in better understanding the perspective that, in my opinion, best clarifies the relationship between the mental and the physical—namely, functionalism, the perspective from which the notion of functional system is derived.

To state the problem more clearly, let us pose the following question: how does one characterize the entity (or what type of entity is this) that is now writing this text? Let us assume that three answers can be provided:

Answer 1: A physical entity, on the one hand, made of bones, flesh, several fluids, some brain matter and so on and, simultaneously, a mental entity that thinks, has emotions, believes, desires, and fears many things;

Answer 2: A physical entity made of bones, flesh, several fluids, and brain matter, among other substances; and

Answer 3: A physical entity that is capable of reacting to stimuli, learning, reproducing itself, gathering data, processing and organizing information, and generating answers, in the form of actions or behaviors.

Now let us analyze these three answers.

The first answer characterizes what I have previously called *ontological dualism*. From this point of view, we are a composite of two distinct substances in equilibrium. It would be enough, therefore, that the

"watchmaker" would doze off for the movements of bones, flesh, and fluids that make up our material substance to be no longer interpretable as a reaction to our desires, fears, and beliefs. In fact, any mistake capable of breaking the parallelism between the physical and mental worlds would also break our personal identity. To be certain of this, it suffices that we imagine a possible separation between my mind and my body. On which side would the "I," strictly speaking, be found? Could we be just a body or just a mind and nonetheless retain the notion that we have in everyday life of our own identity? As should be clear by now, the philosophical and practical problems faced by those who believe in substance dualism are not few in number.

The second answer bets on a description of my material constitution. Evidently, we can admit that it is a correct characterization, but would it also be, if not complete, at least sufficient to characterize the object at hand —i.e., to identify the entity writing this text? Even if we should broaden the material basis by mapping my genotype and, for the sake of argument, all that takes place in my brain at the tiniest, most detailed level, I suspect we would not obtain a satisfactory characterization of this text's author. I write this not because I suppose that, in addition to a body, I also have a mind, but because being the author of this text is to perform a given function, and the characterization of a function is independent of the identification of its basis for material realization.

To corroborate this hypothesis, let us now think not about this text's author anymore but instead about some simple physical object such as, for example, a corkscrew. How would you describe a corkscrew? If you say something like "a metal structure, which has an 'arm'-shaped articulation and a metallic cylinder with a narrow end," my answer will be that you have a specific object in mind that can be used to remove the cork from a bottle; however, that description is still far from characterizing a corkscrew. A corkscrew is simply any object that can be used to remove a cork from a bottle, and our everyday experience confirms that this same function can be performed by materially distinct objects. Proceed now to think about a lever or other objects that surround us: tables, chairs, telephones, doors, and windows, among others. My hypothesis is that all of them are functionally identified, and my dogs Heika and Lua, my cats Marie and Shima, and even my turtle Filo, in addition to myself, a human being, are no exception to this

rule. We are all material entities that carry out specific functions by which we identify ourselves or are identified by others.

The third answer provides a functional, generic description of what I am. Should we wish to know more, we can investigate the stimuli to which I was exposed in the course of my existence. We can also investigate the several forms of mental organization of said stimuli and what they generate as my answers to the world. The fact is that, even if all this occurred on some material basis, I could no longer resort to it to ensure my unity or identity over time. At every instant, some portion of my cells die and are replaced by others. The fluids that circulate in my body today are as different from those that will circulate tomorrow as are the waters of a river at different points in time. My bones lose and acquire calcium according to age and my intake of certain foods. Even my face in the mirror seems to tell little about the child I was.

If the functionalist approach is correct, mental states are functional states. In this sense, they assume a material basis for their realization but can only be identified and described by referencing the role they play in the organizational structure of those beings they compose.

However, if the functional characterization of mental states may still be a target of controversy, the same does not seem true for the descriptions of our bodies' physical or physiological processes. We speak, for example, of the various systems that make up our bodies by referring to their functional characteristics. The respiratory system is the one responsible for exchanging gases in the body; the digestive system is the one responsible for processing and transforming food; the circulatory system, which includes the heart, is the one responsible for transporting essential elements to all body tissues, oxygen to the cells, hormones and so on. So if we now attempted to describe an individual, we could simply refer to the set of functional processes that characterize him or her and distinguish him or her from other entities. Fundamentally, I want the functional system to be understood as nothing more than the set of said processes plus the stimuli and responses given by the body as a whole. Such description may, therefore, satisfy not only the characterization of a human being or other living beings but also the characterization of inanimate beings. By choosing this aspect, or better still, the aspect of a system's functional integrity as the focus for attributing moral value, we are setting aside all other aspects that

distinguish us from other existing entities or forms of life. With this, we will no longer be able to restrict the scope of morality to the small group of beings who, from the functional point of view, are similar to us. If we can identify something as being a functional system, be it human, animal, or not, we are morally committed to not hindering its good performance and also to promote its flourishing.

According to this approach, we can now include in our moral consideration universe not only humans and non-human animals but also the environment itself. At this point, our main difficulty ceases to be (i) finding a justification to have consideration for the other and becomes (ii) knowing what it would be like—for each functional system in general and for each being in particular—to be fully realized. It is, therefore, a challenge to our empirical investigation and a technical difficulty to be overcome by human knowledge of the world in which it exists.

6. For a more inclusive moral approach: consequences and final remarks

With a moral approach now aimed at the flourishing of the various functional systems, some questions traditionally asked in our moral universe seem to take on new contours.

We have already said that, according to this new approach, not only are human beings and sentient animals included in our scope of moral consideration, but so are also the many functional systems with which we are familiar and maintain some type of relationship. Thus, an initial question arises: how far are we really capable of understanding forms of life so different from our own, to the point of being able to respect or look after its flourishing? Even if we have the intention of understanding all those in our moral consideration universe, would there not be a cognitive barrier in place here that would easily undermine the purpose of a universalist moral?

If we consider the way in which we, as human beings, relate to other entities to be markedly anthropocentric—i.e., it derives from a projection of our perception of the world—we find strong reasons to be suspicious of the possibility of success for a moral that truly contemplates the other as and by itself. However, this is a problem that also manifests itself in our ability to act morally towards other human beings. Ultimately, overcoming our anthropocentrism may not be any more difficult a task than letting go of our

own egocentrism. The other, whoever he may be, may always be perceived as a stranger, a being that escapes our comprehension. The solution in this case may be to change our own attitudes.

According to the approach proposed here, to perceive the other should no longer be interpreted as understanding its existence according to our worldview, but instead as learning what it has to tell us or express about itself. The correct attitude, then, is that of an apprentice. This way, we can try to broaden our perceptual acuity and expand our sensitivity, but we certainly cannot avoid the possibility of making interpretative mistakes and, as a consequence, possible failures in our moral claims.

The gravest moral flaw is not found in some limitation or mistake in perception, but rather in the fact that we put ourselves at the highest point of a hierarchical scale of beings relevant to our moral discourse. This is an error from which, in my opinion, not even Singer seems to escape. Even while recognizing that the basic preference interests of some non-human animals have priority over more general interests of human beings, Singer does not hesitate to admit that the lives of beings capable of designing a life plan are hierarchically superior to lives that are simply lived through (Singer, 1993). According to the approach proposed herein, we may recognize that a specific type of functional system may have such an ability. However, to have or not have any given characteristic is merely a fact, which—upon being ascertained—demands specific conduct from us. The important point here is that recognition of a specific ability would not justify the attribution of greater or lesser moral value to the group of beings exhibiting it. What is required in correct moral conduct is an adequate balance between the recognition of functional systems' abilities or characteristics and the corresponding respect for their specific forms of implementation[6].

Once we have rejected the possibility of establishing a moral hierarchy among several existing beings under a merely naturalist point of view, the remaining problem is that of impasse situations, in which we cannot decide between the interests at hand without adopting some form of hierarchy among them. Here, I can only suggest an attempt for us to be as coherent and comprehensive as possible in our moral decisions. We should be capable of harmonizing our choices in the best possible way, even if in the future we should come find that the decisions made in the present were

not the best ones. We are responsible for the moral direction that we give to our present choices, and we should answer for them in the future. This is all we can do. Any other alternative would already make us abandon the attitude of an apprentice and trespass the boundaries of what we can know and be derived from this singular viewpoint we occupy in the concrete world.

Chapter II
Theories of Justice
Maria Clara Dias

If we do consider that, at a more basic level, we cannot attribute distinct values to individuals, then we should, at a secondary level, guarantee this equality by introducing specific rules. However, which rules should these be? How could we reach an agreement on the choice of rules for a later differentiation? Should not the very ability to decide among concurrent universal principles be the true dilemma of those who already accept morality? It may be so. And it is because of this dilemma that the issue of moral grounding gave way in the 1970s to yet another moral but also, most importantly, *political* issue: that of *justice*. In the present chapter, I intend to present different theories of justice and advocate, in the ambit of justice, the perspective of functioning.

1. Justice: a moral and political concept

Justice is commonly used as a synonym for neutrality, impartiality, or equal treatment. We say that a government is just when it guarantees equal treatment, respect, or consideration to everyone, regardless of existing social ties, of the concept of "good" adopted by each social segment and of the natural virtues and talents of its citizens. The issue becomes more complicated, however, when we start to think about (1) who "everyone" is and (2) how we should interpret this equality of treatment or the demand for equal respect.

In the philosophical investigation into what content would be adequate to the principle of equality, two schools of thought stand out: those advocating the equality of well-being and those advocating the equality of goods. The first includes all those who recognize in the notion of well-being the basic attribute of the agents and, therefore, the aspect upon which they should be considered equal. In this light, individuals are treated as equals when the distribution of goods in society is such that it favors greater equality in *well-being*. The second approach, supported by authors such as

Rawls (1971, 1993, 2001) and Dworkin (2005), brings the principle of equal distribution to the *goods* themselves. In this case, a distribution is more egalitarian when there is greater equality in the distribution of goods.

In the interaction of these two approaches—thus worthy of claiming a place of its own—we identify a third view: the *capability* approach developed by Amartya Sen (1995, 2000, 2010) and Martha Nussbaum (2000, 2007, 2011). Beyond the three approaches mentioned so far, I intend to suggest a fourth one: an approach that incorporates some positive aspects from the well-being and capabilities viewpoints, but which most of all stands apart from both by focusing on the equality of individuals' basic functioning, which is to be revealed through empirical investigations into what, for each individual and during the several phases of its existence, best expresses its form of life.

2. The Well-Being Approach

Among those advocating equality of well-being, we can distinguish at least two general groups: (1) theories of well-being as success and (2) theories of well-being as a conscious state. The first group perceives well-being as a matter of success in meeting preferences or goals, be these political, impersonal, or directly related to personal experience. The second group favors any distribution of goods that maximizes the equality of some particular aspect of mental life, most often that of pleasure or the absence of pain. (Dworkin, 2005)

Regarding the first group, we can counter that equality regarding the fulfillment of preferences or goals appears desirable to us only when we somehow already consider these preferences or goals to be valid or worthy. For example, it does not seem compatible with our moral intuition to call for equality in success with regard to a Nazi's preferences or goals. In this sense, such a well-being approach should, before anything else, be capable of submitting the various preferences or goals to some independent moral assessment.

The same type of criticism can also be aimed at the second group—that is, those who characterize well-being as a specific conscious state. It would not be difficult to imagine that, when we inquire as to the subjective degree of satisfaction of a group of women in a male-dominated society, we should obtain the result that most of them assess their lives as being

pleasurable. The same would be observed when investigating such feelings inside a group of poor children who, having no shoes, proper clothes, books, shelter, or even sufficient food, still have fun playing soccer in the street. In neither case would we think that the satisfaction expressed by these agents is sufficient reason for the *status quo* to be maintained. A male-dominated society may be termed unjust, even if some women may feel pleasure while belonging to it. A society in which children do not enjoy the material goods needed for their full development is intolerable, even if its victims do not perceive themselves in such a light and nevertheless experience their lives as pleasurable. If this criticism is correct, then we cannot assume that the notion of well-being, whichever its interpretation may be, provides the adequate sphere for us to think about the equality desired by our concept of justice.

3. Primary Goods and Resources Approach

What to say, then, of the equality of goods? First of all, I should note that, to discuss approaches such as those of Rawls and Dworkin under this framework, I shall conceptualize "goods" in a very broad sense. For Rawls, the goods that should be equality distributed are basic liberties and basic goods, which include those that provide guarantees of self-respect. For Dworkin (2005), it is about the equality of resources, resources which shall guarantee those goods chosen by each agent, in an original auction situation.

3.1 Rawls: Justice as fairness

No longer focused on the problem of the fundamentals of morality, but instead at a theory of justice to give order to a political society, Rawls promotes a reformulation of the Kantian perspective. It is a theory of justice that guarantees equality in the distribution of basic goods by resorting to being impartial or neutral in the face of the many existing conceptions of good. Justice as fairness, as Rawls calls his theory, consists of adopting a rational choice procedure to determine the distribution of basic goods, under the assumption of impartiality. Through this mechanism, one seeks to promote a neutral political sphere in which thoroughly divergent conceptions of good may coexist. Primary goods would be those required by all rational beings, regardless of their particular choices and conceptions of goods. Goods of this type would be rights, liberties, opportunities, power,

income, and the bases for self-respect. To determine basic goods, Rawls offers two alternatives: (I) that which is advocated as such by the largest number of conceptions of good, and (II) that which is analytically derived from a normative concept of person. Rawls chooses the second path—i.e., the analytical one.

His analysis of primary goods takes into consideration two basic abilities: the ability to take part in a process of social cooperation and the ability to take part in society as an equal. Trying to avoid a metaphysical, psychological or anthropological concept of person, Rawls concentrates his theory on a concept of person that he considers to be strictly political and normative. Persons or citizens, in his view, are those members of society who are capable of exercising two moral abilities: the sense of justice and the ability to develop a conception of good. These individuals are rational, in the trivial sense of the term—capable of following arguments and recognizing their validity—and also reasonable, in the sense of being capable of taking the interests of others into consideration and allowing themselves to be influenced by these. Each citizen must then be considered "capable of revising and changing this conception on rational or reasonable grounds" (Rawls, 2001, p. 21). The basic liberties and primary goods guarantee and protect the necessary foundation for exerting the two moral powers that enable them as citizens. In this sense, the "everyone" to which the equal distribution of goods and basic liberties refers corresponds to the set of cooperative—rational and reasonable—individuals in a well-ordered society.

If this analysis is correct, then we can conclude that Rawls sees the equality in treatment, respect, or consideration that underlies the concept of justice as an extension of the recognition that we are all rational beings. From the supposedly analytical nature of the derivation of justice principles from a concept of political or moral agency, one obtains the neutrality of principles. However, can such derivation truly be possible? Can we speak of the principles that organize political society's basic structure merely as formal principles and claim for the mechanism of justice a merely procedural character?

My answer is no. The idea that we can identify a merely procedural concept of justice is another of our theoretical prejudices that loses its veracity as soon as we question what makes or does not make some

procedure the most correct one. We are immersed in a world made of and filled with values. Our view is not, nor can it be, neutral at first glance. Circumstantially, we may adopt the perspective of neutrality; however, this is also performed in the name of something in which we believe and, moreover, on which we bet as part of what we judge to be best for humankind or—put differently—as part of our conception of good.

By committing our conception of justice to neutrality regarding the many conceptions of good in the name of an ideal of equality of respect or consideration in the political sphere, we abandon any assumed primacy of what is just over what is good and move towards a conception of justice which necessarily binds it to the adoption of certain values and the effort to promote them.

However, how should we effectively proceed to promote our ideal of justice? We now have a much more complex question before us and, should we wish to find an answer, we must abandon the ambit of *aprioristic* descriptions of human beings and submit our theories to empirical control. If we ground ourselves on the empirical investigation of what we consider to be basic for promoting our private and collective lives, we may reach a more flexible and comprehensive concept not only of what we may consider as "basic goods" but also of the moral and/or political agent itself—that is, of those relevant to our conception of justice.

3.2 Dworkin

For Dworkin, what we should equally distribute are resources themselves. But, in order for a perspective of justice focused on the equality of resources to really satisfy an ideal of social organization in which individuals have their rights taken seriously, Dworkin first outlines a hypothetical model to equitably conduct the exchange of acquired resources by the desired goods. Next, to guarantee the efficacy of this process of distribution among unequal individuals and the maintenance of justice over time, Dworkin introduces two mechanisms that should remain throughout the whole existence of the political society: insurance and the progressive taxation of later-acquired income.

Let us now look at the first step. To illustrate it, Dworkin proposes the allegory of a group of survivors marooned on a desert island. There, the newly arrived will have to establish rules for coexistence and for the

distribution of the available goods that satisfy a moral principle according to which all should have the same rights. However, to preserve equality in access to goods and each individual's freedom of choice, an egalitarian division of a given number of "*shells*" is initially proposed. Next, an auction is organized wherein each participant may exchange shells for the goods he or she desires. The auction, or system of exchanging shells for goods, should last until all have acquired the goods they most desire. In other words, exchanges should take place until all individuals believe they have acquired the package of goods that is appropriate to their needs, not coveting, therefore, the packages of others.

In this allegory, as in life, some individuals will, however, be luckier than others. The individual who aspired to obtain lands in the south of the island to cultivate them may have his plantations ravaged by a plague, by rainfall, etc. With the same number of shells, the individual who chose goods that favor fishing may have tripled his resources, thanks to the success of his local fishing activity. After a short period of time, those who initially had the same resources are now in quite distinct conditions. In life, as in the island, this inequity will breed not only covetousness for the goods of others but also the strong impression that we may be moving away from the ideals of a concept of justice that preserves each individual's fundamental rights and liberties. The situation of penury experienced by some will undermine the balance of power and the possibility for control over one's own choices. Therefore, to prevent the original situation of egalitarian justice from degenerating, Dworkin introduces insurance against bad luck as a good to be acquired in the auction. As for all other goods, the choice for the insurance is a free one. Each individual may, therefore, opt to bear the costs of having made "bad" choices and not having prepared against this possibility.

There are, still, those individuals who due to natural handicaps had a prior need for some goods to fulfill their fundamental rights. In this case, their options in the auction would not be so free. First and foremost, they would be constrained to obtain goods that might somehow minimize their initial handicaps. To avoid situations of this sort, Dworkin allows for the acquisition of specific resources to level, that is, to place in equal conditions, individuals who are naturally unequal and who, as a result of their natural characteristics, may be considered "less favored."

This procedure should include all those who, due to their identification traits, may be victims of prejudice that violates their fundamental rights. When I employ the expression "identification traits," I want to avoid going into the issue of the dichotomy between the natural and the social. Skin color, gender, sexual orientation, religion and so on may all equally be part of the core of our identification traits. And, for all of these cases in which we may become victims of prejudice and have our access to certain goods denied, Dworkin prescribes the implementation of specific mechanisms of justice.

Last, to guarantee the resources for the amendment mechanisms in the aforementioned situations and to avoid building a society in which inequity between individuals breeds envy and breaks solidarity bonds, Dworkin introduces progressive taxation over later-acquired goods. In other words, those whose initial incomes increase the most are those who pay more taxes, thereby permitting the redistribution of wealth.

In contrast to Rawls's theory, Dworkin proposes a conception of justice aimed at the distribution of resources among the individuals who make up society. He adopts a perspective capable of correcting and incorporating as objects of justice those very injustices or inequalities derived from natural and/or socio-cultural attributes related to each agent. There are, therefore, countless conceptual nuances that distinguish these two theories. As one can see, distinct criticism can be addressed to each of them. In closing this section dedicated to the goods/resources approach, I would like to note one aspect that is common to both Rawls's and Dworkin's approaches: the option for determining the object or content that we intend to make equal in a way that is heteronomous to the agent. Thus, such approaches would set aside the primary source for the valuation of goods—to wit, the agents themselves. My criticism would be that, by abandoning the agent's point of view, such approaches risk promoting choices that no longer reflect particular aspects related to each agent's specific experiences. With this limitation, the selected goods either would only be capable of expressing the choices of some representative individual, under the veil of ignorance (Rawls), or would risk being merely quantitatively computed (Dworkin).

4. The capability approach

The capability approach is introduced by Amartya Sen as an alternative to the two perspectives discussed above. According to the author, his approach distinguishes itself from the others in at least three ways. First, his approach is not based on the identification of the characteristics of an ideal or perfectly just society, but rather on the comparison between societies or social alternatives that are more or less just, within a given society. It would not, therefore, incur what he calls "*transcendental institutionalism*" (Sen, 2010), which, according to the author, is found in theories such as those by Rawls and Dworkin. In this way, Sen's approach seeks to confront the real justice-related social demands of societies, moving away from abstract theories removed from concrete human experience.

Second, the capability approach considers that problems of justice are not restricted to institutional settings—institutions being understood as instruments that allow people to live the lives they value—but also include the behaviors adopted by people in the course of their social interactions and the behavior patterns of social actors in carrying out justice, which includes all those with the effective power to obtain said justice (Sen, 2010).

Third, Sen recognizes his justice perspective as being a results-oriented approach. The capability approach should focus on the lives that people are effectively capable of living in the context of existing institutions. In this way, it sets itself aside from procedural theories of justice, which seek to establish the ideal conditions that can ensure impartiality and, based on these conditions, can generate a unique set of universal principles that will regulate the institutions of a just society, as in Rawls's approach. His perspective adopts what the author calls "*plural grounding*" (Sen, 2010): resorting to different sources of condemnation of injustices. In this case, injustice can be recognized without our needing to come to a common agreement on the reasons or principles upon which our judgments are based. Such characteristics caused Sen's approach to be widely disseminated in the fields of education and public health, having been applied to topics as poverty, development, gender equality, and so on.

Here, the fundamental political objective of the state in managing public policies is to ensure that all citizens under its protection exercise, at least minimally, what Sen terms as their "*agent condition*" (Sen, 2000),

carrying out those functionings which are necessary for living the lives they have chosen or that they value. The focus of equality is, therefore, the very *freedom* of functionings.

Capability, *capacities,* and *functionings*, as least in the way in which Sen presents them, are concepts that correlate to each other while remaining distinct. *Capability* is the freedom to realize or achieve a combination of *functionings* that express real opportunities to realize ways of living, within an array of available alternatives. A *capacities* comprises the many combinations of inter-related states and actions in which a person may find himself or herself or which he or she may come to realize. *Functionings* refer to actions or states that makes up the many available combination options.

According to Nussbaum's (2007) conception, the capability theory incorporates the Aristotelian concept of living organisms as complex functional systems endowed with a set of innate functions or capacities and, more specifically, of human beings as political entities, in which rationality stands out as an essential or central capacity. Central capacities would be those that characterize any and all human life without the exercise of which the very notion of human dignity would be violated. Such capacities would be recognized as being essential in the main spheres in which human beings act (i.e., health care, work, education, leisure, and politics, among others), taking into consideration the various stages of the life cycle (e.g., birth, childhood, adolescence, adulthood, old age, death). For these capacities to be exercised, some social, economic, cultural, and other conditions are necessary so that the individual may effectively choose and realize a well-defined way of life, inherent to what one wishes to be and do.

Among these central capacities, Nussbaum recognizes the freedom to be healthy, to live a life of normal longevity, to exercise control over the environment, to be well-nourished and sheltered, not to fall ill from preventable diseases or die prematurely, to display body integrity, to exercise practical reasoning, to think and imagine, to experience emotions, and to establish relationships with others, among other freedoms (Nussbaum, 2000).

5. The functionings approach

Up to this point, I have presented Sen and Nussbaum's approaches and the aspects that set them aside from the previously mentioned perspectives. I would now like to propose a new focus: namely, the very capacities or functionings themselves. To do this, I now intend to explicitly note the differences between Sen's and Nussbaum's viewpoints, on the one hand, and this fourth perspective, on the other hand.

Sen (1995, p.4-5) seeks to advocate the liberty of functionings (*capability*) as the most adequate sphere in which to demand equality in our concept of justice. Nussbaum goes further and seeks not only to identify the focus of our egalitarian concept of justice but also to concretely determine the functionings that are basic and common to all human beings. The perspective of functionings differs from that of Sen and Nussbaum, at first glance, in that it does not select the freedom of functionings (*capability*) as its focus, but rather the functionings themselves. Nussbaum's concern with determining the set of capacities that characterizes the human form of life caused her focus to often be interpreted as being restricted to the basic functionings or capacities themselves. This mistake, favored by discussions about quality-of-life indicators and references to vulnerable groups, including non-human animals, was dispelled in her book *Creating Capabilities: The Human Development Approach* (Nussbaum, 2011). In her book, the author more vehemently posits as a focus of justice the freedom to elect and carry out the life chosen by each agent.

Second, the approach proposed here further differs from that of Nussbaum in that it perceives our access to what is basic as always being empirical and depending on quite particular circumstances as experienced by several individuals. In this sense, this approach fundamentally incorporates an openness to the perception of different forms of functioning which, from the point of view of the individual's identity constitution itself, should be recognized as basic or fundamental. Nussbaum's claim of universality is then replaced by the inescapable recognition of the diversity and singularity inherent to the diverse forms of life and to each individual's concrete existence.

The emphasis on capability—i.e., on the freedom of choice the capacties or groups of functionings that one wishes to perform—is quite dear to Sen. With it, the author seeks to preserve the agent's central place in determining what he or she is socially entitled to and in determining his or

her life projects. Once again, it is freedom—a value so dear to political liberalism—that exerts its supremacy. Here, the agent—the object of our moral consideration and to which our concept of justice concerns—is once again he or she who is capable of exercising his or her freedom. And in order for the effective exercise of said ability to take place, the capability theory calls for the adoption of complementary measures, be it by institutions, the state, or other individuals. Freedom, the concept of good, life projects, and rationality once more appear as central ideas that guide and delimit justice's universe.

Here, I shall be forced to adopt a "less liberal" and more inclusive approach to justice. Inclusivity, in the sense of morally taking into consideration, respecting, or integrating per this new model, does not mean to act so as not to prevent or hinder but rather to act in promoting the functionings that each individual is capable of exercising and that somehow constitute his or her own identity. In this sense, I shall be considering not only the most elementary functionings, such as avoiding pain, seeking shelter, and expressing sensations and feelings, but also the more complex ones, such as the ability to deliberate about means and their ends, the ability to develop a life project and construct a worldview, and the ability to take part in a society's socio-political life. Thus, the direct emphasis on functionings allows us to include those who will never develop some specific capacities, such as freedom, as understood in its most fundamental form—i.e., autonomy or the power of self-determination.

Such an approach requires us to evaluate, in each case, what can be considered “basic.” Those with whom we are concerned are no longer *in abstractum* human beings or agents covered by the veil of ignorance but more concrete human beings who manifest natural and social characteristics that delimit their scopes of possibilities, their aspirations, and the way in which they are treated by other individuals. If "to attribute equal normative value to all" or "to consider everyone equally" means to recognize each individual's right to develop his or her own functionings, then our differences must be taken seriously, and we should ask ourselves, in different contexts, what type of distribution is needed for us to achieve this ideal of justice. In closing, I intend to show that the adoption of such a perspective of justice commits us to two types of policy, apparently held as incompatible with an egalitarian concept of distributive justice: namely, the policies of restoration and recognition.

7. From a concept for distributive justice to the mechanisms of restorative justice

Throughout history, ethnic and gender differences have been responsible for unequal and inhumane treatment in the most varied societies. Such types of discrimination have left deep marks in the development of fundamental human capacities, thus making restoration mechanisms necessary. The creation of mechanisms of this type is now the aim of so-called affirmative action (Dias, 2004, pp. 871-877). Such practices seek to ensure that different consideration be given to the demands of those without access to minimal guarantees for the good performance of their basic functionings. In this sense, the introduction of such restoration mechanisms, far from contradicting the principle of normative equality, becomes a consequence of adopting our concept of egalitarian justice. In other words, the implementation of discriminatory restoration mechanisms is now recognized as a fundamental step toward the achievement of a society in which all may be considered objects of equal respect—i.e., toward a just society.

While assessing what is fundamental for a person's full development, we have also arrived at the recognition that human beings need to establish community bonds—i.e., to belong to groups and to be recognized by them. It does not matter the size of the group nor how intense its bonds are, and any exception in this case just confirms the rule. Non-recognition by other group members or a lack of public recognition of the group as representing a specific (cultural, racial, political or gender) unit undermines the individual's self-esteem and, in so doing, his or her potential for full realization. Those concerned here are not deterritorialized, atemporal agents, whose desires have been emptied of any and all content, but instead are human beings with concrete ties that largely delimit their demands and accomplishments. Therefore, a universal principle of respect requires that we should now equally recognize certain groups' demands for a form of political representation capable of expressing the values with which they identify themselves. To meet this demand is the goal of so-called identity policies.

8. Final remarks

I have sought to present a concept of justice that is compatible with the moral perception that the term "everyone" should correspond to an increasingly broad set of individuals, incorporated with their own—perhaps never "chosen," but nonetheless effectively experienced—forms of life. I have proposed an approach that acknowledges cultural, linguistic, ethnic, and religious identification ties in the myriad groups that make up society, as well as individuals whose social insertion remains outside those itemized categories. Inclusivity, in this sense, does not necessarily mean making one a citizen—i.e., giving an individual a national identity as a regular member of civil society, with the right or duty to vote, but rather to hear his or her own demands and create conditions so that, even outside the social, cultural or legally established order, he or she may express his or her own identity and live authentically, without the stigma and shackles created by the society in which he or she lives.

There must be, within this scope, a place in which individuals quite different from us may find a way to express and promote their existence. It must be possible to listen, without saying anything, toward the end of simply learning or enjoying a distinct existence in the expression of its plenitude. It must be possible to let live—to ensure that everyone may live authentically—without imposing on others the role that we planned for their lives. Not everyone can fully become part of a socio-political society. Not everyone can define a life project or even deliberate about his or her own existence. However, everyone has something to reveal about himself or herself and, certainly, also has a better way of being in the world that we may help construct.

9. Summary of the different approaches:

AUTHORS	PROCEDURE	FOCUS	WHO DECIDES	WHAT DECIDES	FOR WHOM
RAWLS	Veil of ignorance (principle of impartiality)	Basic freedoms, opportunities, and primary goods	Rational/reasonable individuals, representative of economically active groups	Principles of justice	Society's basic structure
DWORKIN	Auction+insurance+taxation	Resources ("Seashells")	Regulatory agency	The amount of resources	Individuals
SEN NUSSBAUM	Freedom of choice	Capability: freedom of capacity and/or functionings	The agent	Capacity set and/or functionings	Agent
DIAS or, simply, the functionings approach	Empirical investigation	Functionings	Moral society and/or the state	In each case, the basic or fundamental functionings	Individuals (functional systems)

Chapter III

Art and environment: expanding the limits of morality

Maria Clara Dias

In the first chapter of this book, I have sought to show how, from the point of view of a moral aimed at respect or consideration for the various existing functional systems, we might include non-human animals as equal objects of moral consideration. At the same time, I have also advocated a functional view of the many existing entities. But, if we really accept the sheer fact that being recognizable as a functional system entitles something to our moral consideration, are we not opening the door of morality to any and all types of entities that can be functionally defined? My initial answer is that we extend morality to many such entities, but not necessarily to all. In this chapter, I intend to advocate this expansion to at least two groups of entities: works of art and the environment. Along the way, I intend to clearly state the reasons why I claim that we must not *necessarily* be committed to moral consideration and the realization of any existing functional system.

Back to the notion of functional system

To characterize something from the functional point of view is, first and foremost, an individuation process—a process that is contrary to, for example, an individuation process, which resorts to the material constitution of the object in question. To functionally individuate an entity means to identify it based on its functional role.

In this sense, we may at the same time refer to an object—e.g., a bookshelf—as if it were made of wood or as if "it were used for" or "had the function of" storing books. In the first chapter, I have sought to demonstrate that resorting to an object's physical constitution may not serve to identify it. Other than a bookshelf, several other objects are made of wood. In addition to wood, several other materials may also be used to make a bookshelf. Given this, referring to its physical constitution seems to fail (1) because it is not sufficient to distinguish or discriminate the object at

hand from other objects made of wood and (2) because it does not satisfy even a necessary condition, given that many objects, from the point of view of the function they perform, may be made out of quite different materials. Some rather evident examples of this are can openers, corkscrews, telephones, and levers, all being cases in which both the form and the physical constitution of any one given object may differ significantly.

Until now, we have operated on merely descriptive grounds, and many might claim that, from the point of view of strict knowledge production, this may not be the most adequate method for identifying or distinguishing entities. I have sought to show in the first chapter that this method offers some explanatory advantages, at least with regard to knowledge about minds or beings to which we simultaneously attribute physical and mental predicates. I take as an "explanatory advantage" the simple fact that we can thus understand and clarify some given relationships between physical and mental aspects that populate our everyday lives.

In particular, the functionalist approach allows us to eliminate the explanatory gap between the mental and the physical, thereby allowing us to accept our intuition that many of the functions we perform are multiply performable—i.e., can be performed by physically distinct entities.

A functionalist view of the mind further allows one to incorporate a very old belief, which remains foreign to many of us, that our minds are not located in our brains nor even within the boundaries of our bodies, but rather that our mental operations are distributed between the *input* and *output* spread over the set composed by our physical bodies and the world. In certain cases inanimate object is part of our ability to respond to the situations we experience and to produce knowledge. Consequently, such objects are now understood to be coupled systems that, in turn, may become part of that which we call "our minds." We thus arrive at the theory of extended mind—a theory that, as I intend to show, is already considerably widespread in our everyday lives.

The extended mind: descriptive characteristics and moral consequences

To illustrate this idea, let us imagine a very common situation. I have just scheduled a meeting with my graduate student, Diogo. Because my memory is not as good as it used to be and often fails me, I write down

the appointment in an organizer that I always carry with me for that purpose. I then consult the organizer and, seeing my meeting's date and time arrive at my office for the meeting at the correct time. Diogo also arrives at the appointed time. When I ask him how he managed to arrive at the meeting at the exact day and time, he replies that he remembered having scheduled the meeting the day of and one hour before his class in Logic at the Philosophy and Social Sciences Institute. Anyway, Diogo resorted to information stored in his memory and, thanks to this resource, he arrived at the correct day and time. The information contained in Diogo's memory is part of his cognitive process. In my case, I managed to arrive at the correct time and on the correct day because I could resort to the information contained in my organizer. Would it therefore not be correct to say that also this latter information is part of the cognitive process which made my arrival at the meeting possible? If we can agree that it is so, we might admit that part of our cognitive process may include elements that are found outside the boundaries of our bodies.

The example above endorses what Clark (2010) advocates as the *parity principle*—i.e., the principle requiring that similar treatment be given to distinct elements that perform the same role or the same function in the knowledge production process. The information contained in Diogo's memory and the information contained in my organizer perform the same role: namely, they are integral to the cognitive process that enables us to arrive at the meeting at the correct time and on the correct day.

However, this characteristic of the functional approach, merely descriptive in itself, may have consequences from the point of view of morality. And, from this moment on, we may be able to justify why some objects, even if inanimate, should be objects of our moral consideration.

Continuing the example above, imagine that somebody steals my organizer. I would now be deprived of information that is essential for me to carry on with my work and fulfill my commitments. The harm caused by the theft would certainly be much greater than some physical damage, even one that might cause some temporary loss of consciousness.

Depending on the information contained in the organizer and the possibility of ever retrieving it through other channels, the damage might affect me at quite distinct levels. It suffices to imagine that now we are no longer talking about an organizer but a computer, one without backup, in

which all my still unpublished articles and pictures recording the first years of my daughter's life are stored. I can assure that, at least in my case, I would have preferred to have part of my own body removed, rather than finding myself deprived of all this information. My articles, regardless of their objective merit, are my way of projecting my beliefs on the world. They are, in this sense, the part of me to which other people will have access when I myself, as a singular entity, am no longer in this world. They are part of what other "I"s will have from me to share. The pictures of my daughter are mementos that I share with her and with all those who have somehow taken part and will take part in our lives. In these two cases, something fundamental to me would be lost forever. And, at least in the case of the articles, it also becomes evident that such a loss might shake my self-esteem and my feeling of personal realization.

Let us now move to less personal but quite elucidating examples. Let us imagine that *Mister X* is a blind individual who uses a stick to calculate his distance to other objects and, by doing so, ensures his physical integrity in the face of possible collisions. Were any of us to take away his stick, great harm would be caused, and part of his functioning would be compromised. The stick and *Mister X* form a unique functional system, and to break this connection means to damage the system. Other clear examples of this type can be illustrated by a student's notebook, someone's prescription glasses, or the nappy towel a baby hugs to sleep. All these objects may be so coupled to our cognitive and/or affective systems that they become part of what we are. This is even more evident when we think about our language, books, songs, and images we record from the world. Damage to any of these entities is damaging to our very form of realization.

However, can any object be a constitutive part of the mind? Evidently not. It may be that any object can be described functionally, but only under specific conditions can we say that an object is part of our cognitive system and, consequently, of our minds.

Clark and Chalmers (1998), in their description of the conditions for an object to be considered a constitutive part of our cognitive system, list constancy, accessibility, and reliance or automatic endorsement by the agent of the information contained in the aggregate entity. Such conditions, therefore, already allow us to set distinguish our notebooks from the books in a library, from the point of view of their roles as part of our cognitive

system. Phone numbers, dates for taking part in thesis committees and even the sequence of arguments read in a text are pieces of information that I claim to have, but my notebook is needed to access them. The Dadaist movement's history and the sequence of films directed by Jean Renoir are examples of information that I can obtain if I have access to library books or, currently, to *Google*; however, I do not dare to claim that I possess these. I may access them, but certainly not with the same constancy, agility, and security with which I access my notebook. The information contained in the library books and Google are, therefore, not part of my mind.

Incorporating works of art and the environment into morality

Some objects are, therefore, capable of integrating our cognitive processes and becoming part of our minds, but to receive the privileged *status* of entity with moral value will certainly depend on the way in which each object relates to a functional system that we value. When an object is a constitutive part of ourselves as functional systems, to morally protect, preserve, and respect such an object is a condition for our very flourishing.

As indicated by the examples that I have previously given, I would like to go further and consider not only those possible entities that integrate our cognitive system but also those that warrant our personal integrity from the emotional or affective point of view as well. There are entities—objects and living beings—without which we would not be able to imagine a full personal identity. This is, in my understanding, the case describing works of art and the environment, both of which are objects of our aesthetical contemplation without which we cannot experience our own existences as fulfilled or happy.

My personal narrative is committed to characters from Dostoievski, Proust, Balzac, and others to such a degree that I could no longer recognize a world in which I could not identify their steps. I see Rio de Janeiro through the eyes of poems by Vinícius de Moraes and songs by Tom Jobim. In Chico Buarque's lyrics, I have learned to understand the vicissitudes of the female soul. In a world where these points of reference no longer make sense, I would feel lost; or, rather, a part of me, perhaps the most important one, would no longer exist. This is just as well; how could I ever bear the idea that someday that forest, with whose splendor I have so many times colored my dreams, will be replaced by some pasture or factory? I believe

there is a world that, with or without my presence, is richer because of all these things.

However, would it not be a flaw, from a moral perspective, to include an entity because of its importance or value to us? There is some conceptual confusion about this. Unless we adopt a quite peculiar ontology regarding possible worlds and existing entities[7], we should be able to admit that values are not natural entities but, instead, human attributions. To better phrase it, values are weights that we attribute to all that relates to us. Values are part of the way in which we refer to other entities. This, however, does not mean that we cannot base our value attributions on objective criteria, so that, from this moment on, the value of something becomes independent from our personal interests.

Therefore, stating that attributing value in a manner dependent on us would be a moral error is, from this perspective, a fallacious statement because all attributions of value are fruits of the human universe. The moral error would be to make attributions of value depend exclusively on our own instrumental interests in the object at hand. This, however, does not arise from the perspective I am advocating here.

My theory is that our relationship with the environment and with art is not instrumental but, rather, constitutive—constitutive of our self-realization process. There is no egotism or moral subjectivism here at all. Self-realization is, in turn, once more linked to the notion of a system that yearns for its plenitude. What I am trying to posit is that we do not experience ourselves as fully realized beings as long as this realization is not accompanied by the realization of those beings in whose values we place the value of our own lives.

Through works of art, the artist expresses feelings and a quite peculiar way of being in the world, which somehow may come to be shared by human beings over the course of years, decades, and centuries. The work of art is much more than the record or projection of a life. It can be the record of the history of all humankind. It may come to be the most sublime part of us, the part of us that we share with the other *I*s, or even more, with all of humankind. It may be because of this that, even in the bloodiest of conflicts, there is always a strong call for historical monuments and great works of art to be preserved.

Likewise, "nature," the ecosystem, the biosphere, and the environment are, to us, objects of contemplation and fascination that at the same time assign new meaning to the dimensions of our existence and amplify our feelings of belongingness.

An environmental form of ethics

In the philosophy literature, we use the term *deep ecology*, coined by Arne Naess (1973), to denote a perspective that attributes non-instrumental value to the environment. Its counterpoint would be the view according to which our environmental concerns would all be related to the way in which environmental changes may come to favor or harm human life. In other words, this would be a merely instrumental, "shallow" interpretation of our relationship with the environment.

It took me a while to understand that someone might actually claim to be an environmentalist while supporting this view. As time passed, I realized that almost all saw themselves this way. Today, I understand that this attitude may not exactly be a superficial or shallow perception of ecology but may instead be a more complex process of self-delusion or self-deceit by its followers. Biologists and botanists dedicate their entire lives to the study of species that, from a pragmatic point of view, have little to teach us. How could we comprehend these scientists' obstinacy unless we could resort to distinct, existential learning, the fruit of the contemplation and admiration of different functional systems, in their struggle for full realization?

However, if we assume that these are exceptions and that the layman does indeed have this merely instrumental relationship with what surrounds him or her, it leads to the following question: why do we care about the solar system if our personal lives are so ephemeral that we will never witness its changes? There may be several reasons that explain our interest in other beings, but I would like extend the hypothesis that, behind our attribution of value, there is a certain fascination not necessarily for life, as many think, but for the integrity and diversity of a system. Perhaps these may partially be our paradigms for a life well-lived.

As Naess himself notes, the foundations, reasons, or motives by which someone adheres to a deep ecology view may be the most varied. Many admit a transcendent or religious matrix in which the biosphere is

interpreted holistically, endowed with an absolute, non-relational value of transcendent origin. From this perspective, the biosphere is adopted as the irreducible unit of moral reference.

Like Naess, I believe that the central core of deep ecology may be endorsed regardless of any religious matrix. The core to which I refer is a non-anthropocentric form of ethics, which encompasses the whole biosphere, or better still, the environment, without establishing any type of hierarchy. Like many followers of deep ecology, I too adopt a holistic view of the realization of and relationships among the many existing systems. However, regarding the perspective advocated here in particular, I would like to emphasize that it is not based on life as a value, nor does it privilege living entities. Its focus is on the functional systems for whose definition, as we have seen, the attribute of being alive versus not being alive does not play an essential role.

Being alive, just as with the cases of being vulnerable to pleasure and pain and being able to make choices, is characteristic of some systems, and the realization of such systems depends on this feature. In these cases, the attention toward, care for, and respect for these characteristics is a constitutive part of our moral commitment. However, the peculiarity of the functionings approach, seen as a moral perspective, lies precisely in the expansion of our moral commitment beyond those systems capable of performing such functionings.

Attributing value to the various functional systems is something that we do as human beings. And, if we do not need to resort to transcendent entities to justify the values attributed, neither do we need to adopt some merely instrumental type of grounding for them. What grounds or justifies the value, the weight, or the importance that we attribute to certain functional systems are the characteristics intrinsic to such systems—characteristics that, in their own ways, enrich our world.

The sight of the sunset, the simple sound of a river flowing over its rocks, and the smell of wet soil can project strength, serenity, and continuity into our lives. The ability to generate such feelings and our perplexity in the face of the complexity, diversity, and integrity of the distinct functional systems that are part of nature endow the environment with a value that is independent of our personal interests, although inseparable from our concept of what a fully realized life should be.

In closing: the possibilities and limits of a moral perspective

I have sought to advocate a more inclusive perspective of morality, capable of including not only human beings and sentient animals but also the various functional systems that we value. However, if it is we—i.e., humans—who identify the systems and consequently recognize their needs and define their form of realization, do we risk anthropomorphizing all other beings?

Regardless of any judgment of value, it is we—humans—who create a moral way of life. It is we—humans—who take other beings as objects of study, objects of knowledge, and objects of moral consideration or respect. Collectively, these actions make us moral agents par excellence. Ours is the responsibility for a moral life and for the treatment that we give to other entities. During our knowledge production process, we may be led to the mistake of projecting onto other beings those characteristics that mark our own species. From the moral point of view, we should be cautious of such offence and develop our imaginative capacities in the sense of increasing our sensitivity to previously unnoticeable demands. We should pay less attention to our intellectual arrogance and lend more voice to our own feelings. We should hear and see in a less "anthropocentric" manner. Against the offence of projecting onto others our own demands, these are the only weapons at our disposal: a continuous process of awareness and clearly listening to the other.

Morality, just as the case of human knowledge, is bound to yield to our own limits. We shall make errors and convert our errors into lessons, but we shall not prohibit the moral impasses and conflicts that plague our form of being in the world together with other beings. These errors cause moral judgments to be essentially non-definitive and force us to remain alert to the revisions of such judgments and to the transformations in context and in demands that are inherent to the many forms of existence.

Chapter IV

Broadening the functional description of what we are

Maria Clara Dias

Human beings, their relationships with other beings, their forms of perceiving, knowing, and being in the world, their potential to transform themselves, and the environment in which they live, are all classical themes in philosophy, science, and art. These are themes that inevitably emerge in all of the spheres in which we, as human beings, act. In the ambit of moral discussions, the metaphysical question of what we are, although almost always silent, seems to determine our theoretical inclinations and our endorsement or rejection of specific practices. Whether we are children of God, whether we have an immaterial and immortal soul, and whether we have a transcendental consciousness and free will seem to determine not only what we deem reasonable to demand *of* human beings but also *for* human beings. It is in this sense that we refer ourselves countless times to so-called "human dignity" when assessing the moral value of practices such as abortion, euthanasia, and techniques for intervention and enhancement. However, what could such dignity be? Certainly, such dignity is that which makes us specifically human. The only problem is that we may not know so well what that means.

In this chapter I aim to advocate our moral commitment to the enhancement of human beings, understood as complex functional systems. To this end, I first intend to return to what I have previously advocated as a functional characterization of human beings. Based on this characterization, I intend to defend an extended concept of the mind and the self: a perspective according to which not only our cognitive processes but also our very identities are seen as necessarily including entities external to our bodies' boundaries or artifacts. With this, I intend to emphasize the impossibility of speaking about human nature as something fixed and having well-defined limits. I advocate a continuously dynamic view of what we are; I intend to reject both a conservative and pessimistic perspective regarding the contemporary intervention and enhancement practices as well as the transhumanistic hypothesis of human enhancement as the creation of

a new entity—one that essentially is no longer human. Along these lines, I intend to show that we, human beings, have always understood ourselves to be beings projected into the world and have always been, in a sense, *cyborgs*—i.e., a mixture of biological beings and artifacts.

1. About the individuation of human beings

One of the central problems of any contemporary attempt at the individuation of human beings is the need to provide a characterization of the mind that makes it compatible with the materialistic convictions characteristic of the contemporary period. More specifically, this characterization must be compatible with the conviction that everything that exists belongs to the physical world or exists in a network of causal relationships with the objects in the physical world. In this sense, one must understand the mind to be able to include it and make it part of the physical world, thus avoiding ontological dualism and all its shortcomings.

In the first chapter of this book, I sought to pose this problem by resorting to the following question: how does one characterize the entity (or what type of entity is this) that is now writing this text? Allow me to return to this passage and transcribe, once more, the possible answers and their consequences. Three answers have been presented:

Answer 1: A physical entity, on the one hand, made of bones, flesh, several fluids, some brain matter and so on and, simultaneously, a mental entity that thinks, has emotions, believes, desires, and fears many things;

Answer 2: A physical entity made of bones, flesh, several fluids, and brain matter, among other substances; and

Answer 3: A physical entity that is capable of reacting to stimuli, learning, reproducing itself, gathering data, processing and organizing information, and generating answers, in the form of actions or behaviors.

Each of the alternatives leads to specific scenarios.

The first answer characterizes so-called ontological dualism. According to this perspective, we are a compound of two distinct substances in equilibrium. It would be enough, therefore, that the great conductor made a mistake for the movements of the bones, flesh, and fluids that make up my material substance to no longer be interpretable as a reaction to my desires, fears, and beliefs.

The second answer bets on a description of my material constitution, which, albeit correct, would be insufficient to account for the relevant aspects in individuating this text's author.

The third answer provides a functional and generic description of what I am, which evidently can be enriched through the study of the way in which my system of beliefs and desires is organized and of the facts deemed most relevant in the constitutive process of my personal identity.

Let us now see, in an impersonal and more detailed way, how a functional description of the mind would appear.

2. Functionally describing the mind

The functionalist perspective is generally characterized by matching the mental states with the functions they perform. What makes a belief with contents *p* a mental state is its relationship with some given sensory stimuli, with other internal states, and with behavior. In this sense, mental states are not so much internal causes for behavior as they are effects produced by the external world. In the words of Jackson and Braddon-Mitchell,

> (...) a functionalist theory of mind specifies mental states in terms of three types of clauses: input clauses that say which conditions typically give rise to which mental states; output clauses that say which mental states typically give rise to which behavioural response; and interaction clauses which say how mental states typically interact. (Braddon-Mitchell and Jackson, 1996, p.40)

To avoid circularity in the explanation, the characterization of each step must be made in merely physical terms—i.e., the intentional states that we intend to describe in physical terms cannot be reintroduced in characterizing the *output*. It must be possible to fully describe *outputs* in terms of physical changes in the world. The functional description of mental states therefore involves a network of physical relationships that includes behavioral dispositions, typical causes, and other mental states, as long as these are also characterized in terms of behavioral dispositions—i.e., in functional terms.

The most typical way to exemplify a functional theory is through the construction of models—i.e., machines programmed to perform a specific type of function. In this case, illustrations go from the simplest machines, such as those that give us Coca-Cola in exchange for inserting coins of a given value, to the connectionist machines of the PDP (*Parallel Distribution Process*) type or neural networks. It seems evident that the

complexity of the functions carried out by our mental states requires flexible and quite complex models—models that perhaps are complex enough for us not to be (yet) capable of describing them. In this sense, the functionalist proposal seems to be vulnerable to a factual objection, but, if my argument is correct, it should become clear that, in principle, nothing prevents all relevant aspects of the mind from being described in physical terms.

The human mind, functionally described, would operate as a flexible program composed of various modules. The first module would comprise a scanner, which is responsible for receiving the *inputs*. Next, we can imagine several modules, among which is an evaluation module responsible for selecting the information that would reach the final stage: namely, the production of some specific behavior. The peculiarity of this type of program would be its capacity to learn—i.e., to change the product as a function of a new *input* that would include the effects produced by the agent's behavior in the previous stages. In other words, the generated *output* would promote external responses that, in turn, would be introduced as *input* and evaluated by the program to produce a new result. In this way, a model programmed to recognize characters, such as the ones successfully used by the mail system, changes its *performance*—or rather improves it—as new, graphically different samples of a similar nature are fed into it, to which the programmer responds positively or negatively according to whether it is recognized as a character. Such models can rearrange their data to become capable of recognizing previously ignored characteristics. Based on the functional analysis of models with flexible programming, we now shift our attentions to one of the main characteristics of the human model: its capacity to learn.

Therefore, supposing that a functional description of our propositional attitudes is possible and that, with such an explanation, nothing essential to such attitudes is lost, the problem of the explanatory gap between the mental and the physical (or the problem of reducing the mental to the physical) now concentrates itself solely in the issue of the *qualia*—i.e., the alleged subjective properties of experience. How are we to incorporate these properties into a physical/functional description of the world? To answer this question, I make use of the PANIC theory, developed by Michael Tye. In the words of the author: "*[P]henomenal nature is one*

and the same as Poised Abstract Nonconceptual Intentional Content (Tye, 1995)."

The PANIC theory is about phenomenal states or events perceived as intentional phenomena but, at the same time, as non-conceptual phenomena. Such states may accompany other intentional states of propositional content and may serve as the *background* for cognitive processes involving intentional states of propositional content. What is decisive, however, is that intentional phenomenal states are *not* conceptual themselves. Bodily sensations, such as toothaches or orgasms, are representational in the sense that they causally reflect, *under normal circumstances*, changes in specific parts of the body. These changes comprise the representational contents of bodily sensations. Such representations are, therefore, (1) the *output* generated by stimulation of parts of our bodies and, as such, become part of (2) the *input* of those cognitive processes in which the representations are, for the first time, cognitively revealed to the subject of the representations. As a consequence of cognitive processes acting on these non-conceptual representations, the subject becomes aware of its phenomenal states.

To become aware of one's own experiences is a cognitive process that subsumes, for the first time, phenomenal experience into concepts. Only then does the experiential subject adopt an epistemic (cognitive) attitude in the face of its phenomenal states. *Below* this level of *awareness* —traditionally called "introspection"—is phenomenal *consciousness*. Phenomenal content would, therefore, be better described as a non-conceptual representation of the physical changes that are ready to become part of the intentional *input* of processes for which the *output* includes other intentional states of propositional content, such as beliefs and desires. Therefore being the subject of a phenomenal experience would mean having additional and non-conceptual representations provided as *input* for some given cognitive processes, which could promote different responses.

Once one accepts the description proposed here, two consequences follow. First, mind and body can no longer be thought of as distinct entities. The question about the identity of each should now be answered by referring to a network of processes which involves the *performance* of distinct functions, some of which are usually described using a mentalist vocabulary. We shall call this network *Self*. The *Self*, thus understood, is not

a transcendent unity that controls the whole system, nor is it a specific part of such system. The *Self* is a network or a conjunction of processes. As such, it is projected onto the world and is under constant transformation. Its informational field is composed of data derived both from within and without its own body's boundaries. In this sense, we arrive at the second consequence of the theory being advocated here: our *Self* can no longer be identified simply as the brain nor be delimited by our bodies' limits.

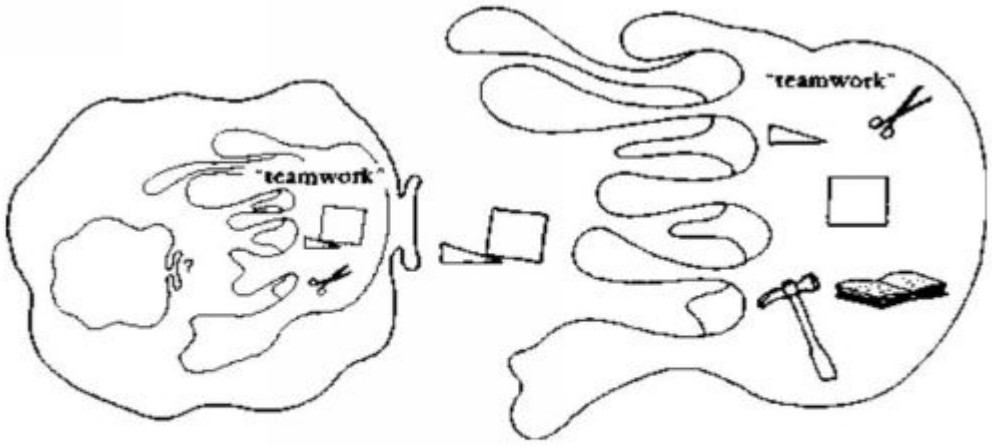
If we now wish to think about our cognitive activity according to the functional model of the *input/output* relationship and various mental states, where should we set the boundaries of the cognitive process? According to the functional perspective, cognition cannot be identified as a specific stage of this process—as an isolated mental state, for example—but would instead represent the whole process. In this case, it would necessarily involve a complex network of (internal and external) *inputs* and *outputs*. The elements that compose the cognitive process are therefore part of a dynamic structure in which the roles being performed are under constant permutation. Records left in books, diaries, computers, and our environmental surroundings play such a fundamental role in our informational *set*, as do our sensations, memory traces, and the operations performed in our brains.

The role performed in our cognitive process by objects found outside the boundaries of our bodies or by artifacts may now explain why our reasoning is weakened when we lose our organizer or the information that we store in our computers. It may also explain the cognitive collapse of the elderly who are removed from the places, people and objects that were familiar to them. According to this view, our cognitive process necessarily extends itself beyond our brains and the boundaries of our bodies because it involves, as a constitutive part of its mechanism, the *inputs* that make up the contents of our thoughts and what we (using Kantian vocabulary) would call their very synthesis through concepts. Language is itself an artifact that we incorporate to our cognitive structure and that takes on the role of projecting part of our mental contents into the world. The mind or the Self, a narrative entity to which we refer not only our cognition but also the totality of our psychological states, is not an entity that relates to or represents the world; rather, it is a network of processes in the world (Rockwell, 2005).

The notions of the extended mind and cognition have been accepted by many philosophers. I do not intend provide details here about the variations that exist among those who accept and advocate such notions; rather, I will call attention to the consequences this thesis has to our concepts regarding who we are and the recognition of our moral commitment to human beings.

3. Human Nature and Enhancement

In his book *Kinds of Minds*, Dennett (1996) suggests a comparison between some types of creatures based on their capabilities or the functional role played by their "minds." We, human beings, would be closest to the so-called *Gregorian creatures*, who are characterized by how they project their minds onto the world, thus turning the world into a tool or part of their mental processes. Thus, Gregorian creatures transmit and share mental contents and, thanks to their coupled systems, take on a limitless scale of expansion. The figure below, taken from Dennett, illustrates the plasticity of that which would be the model of our minds:



Gregorian creature imports mind-tools from the (cultural) environment; these improve both the generators and the testers.

If we are correct—i.e., if the best way to describe our nature is indeed by resorting to some fictional, amorphous creature, under constant transformation, that takes in its surroundings and incorporates into itself this informational *set*—then we must refrain from appealing to human nature as a means to prohibit practices that we think are morally condemnable. The absence of a human nature with clearly identifiable frailties and abilities

also renders the transhumanistic hypothesis meaningless**.** We do not know any limits to our incorporative activity; our own limit is the world, which, like us, is also dynamic and amorphous. However, if we no longer have a rigid notion of what human nature may be, how should we position ourselves in the moral debate regarding human enhancement? I advocate here a moral perspective that does not take as its premise or starting point a rigid concept of human nature: (1) it cannot, *prima facie*, reject intervention and alteration practices targeting human creatures, (2) nor can it categorically determine which interventions shall, indeed, promote an enhancement of human beings in general.

In other publications, I have sought to discuss the controversy regarding human enhancement based on the arguments presented by *bioconservatives* and *transhumanists* (Dias and Vilaça, 2010; 2013). Here, I simply intend to note the role played in this controversy by mentioning a notion of human nature that I think is mistaken.

For the so-called *bioconservatives*, the "dignity" of human nature, which is frequently associated with rationality and autonomy, is the foundation of our ethical self-understanding as beings of a species and determines how we relate to other human beings and to individuals of other species. In this sense, it would be prohibitive to manipulate human nature and necessary to preserve it, in its essential aspects. With some variation, this is the perspective of authors such as Habermas (2004), Kass (2002; 2003), Fukuyama (2003), and Sandel (2007).

Transhumanists, in turn, use technology to alter and improve what is human; through this, they create the *transhuman*. The "*transhuman*" (Bostrom 2013) would be an intermediate state between the human and the post-human, characterized by significant changes in the human and generated beings with non-human characteristics—so-called chimeras or the *cyborgs* in Savulescu's (2009) vocabulary. The term "post-human" would in turn characterize beings originally "evolved" or developed from human beings but significantly different from them, such that, in all relevant aspects, they could no longer be identified as "human" (Savulescu, 2009).

For the *bioconservatives*, enhancement would be morally condemnable because it changes or destroys human nature. *Transhumanists* advocate enhancement as part of a bet in a post-human world where beings, essentially no longer human, would achieve a superior quality of life, free

from the bonds imposed by their nature as human beings. On both sides, therefore, one finds some concept for what the human nature is, a nature that enhancement would transform and, for better or worse, destroy.

My bet on human enhancement differs from these others. I advocate that enhancement is part of our nature because we are flexible and dynamic functional systems that transform and shape ourselves in an attempt to better harmonize ourselves with our surroundings and achieve full realization. We do not risk becoming *cyborgs* because, in fact, we have always been entities that extend beyond our bodily boundaries and project ourselves onto the world. In this sense, we have never been able to define a deep "I," distinct from the "other's I."

Another feature that is also quite dear to the controversy between bioconservatives and transhumanists is the distinction between intervention practices termed therapeutic—i.e., those that are carried out to compensate an alleged disability—and enhancement practices, understood to be modifications to an individual's biological or psychological constitution aimed at promoting one's own functioning or even creating abilities that increase its quality of life. Well, if we do not have a rigid concept of human nature at our disposal, the very notion of what a disability is becomes relative to the individual's relationship with its surroundings.

An individual who satisfies the cognitive standards currently in place, from the biological point of view, may exhibit a behavioral *deficit*, from the social point of view, in the light of a given society's standards. In this case, would an intervention practice be termed therapeutic or enhancing? We may also imagine the case of individuals with biological disorders who have nevertheless fully adapted and become realized in society. Would we now be justified in performing some sort of intervention?

Finally, along with a static notion of human nature, we have also lost the boundary between the normal and the pathological, between therapeutic intervention and enhancement. In this case, the moral commitment should be aimed at any alteration that, as advocated by Savulescu, increases a person's chances of having a good life in the relevant set of circumstances (Savulescu, 2011). More specifically, according to the functional perspective of human beings, our moral commitment embraces the enhancement of functionings that make our personal realization possible, whatever this may mean in each case.

If we accept the statement by Almodóvar[8]—"We are all the more authentic the more we approach that which we would like to be"—a biological or psychological intervention becomes no more than an instrument at our disposal for achieving our ideal—i.e., for becoming the person we wish to be or to build the world in which we want to live. And if we do not know the limits of what is human, we can still look at our history and observe, amidst hits and misses, all our efforts in the sense of promoting the necessary knowledge for the improvement of our quality of life. We have always made a moral bet on our enhancement, be it through education, art, or science.

The main challenge for a moral perspective aimed at the flourishing of many functional systems is the identification of those functionings that are essential to human beings and the optimal endpoint to be achieved by each particular individual. Each individual has characteristics of his or her own and is immersed in particular contexts from which one extracts not only that which one is, meaning one's personal identity, but also one's standards of what a fulfilled or happy life may be. To overcome this difficulty, we need to enhance our ability to feel and put ourselves in the other's shows, an ability that, above all, demands keen sensitivity from us.

If we could morally agree about the need to better understand the needs of others, then we must abandon the perspective of impartial observers or omniscient beings operating under the veil of ignorance and adopt a perspective of real human beings who live and act in complex contexts consisting of multiple subjectivities, not all of which are subsumable to our rationality standards. From a moral point of view, all that we would have left would then be to recognize the need to invest in all devices capable of promoting our sensibility process. That can be obtained through the creation of environments that favor social interaction and conviviality, educational processes, or the promotion of forms of sensibility through arts or even through direct intervention in the internal metabolisms of human beings.

4. Conclusion

In the previous chapters, I have advocated for functional systems as the objects of our moral consideration and for the flourishing of said systems as a moral commitment made by each moral agent. In this sense, I have sought to widen the focus of our moral consideration by incorporating

non-human animals, works of art, and the environment. In this chapter, I have returned to human beings in particular to analyze the apparently controversial moral advocacy for human enhancement practices. I have sought to show that a functional perspective of human beings is equally aimed at their flourishing; because they are conceptualized as dynamic systems, their flourishing is nothing more than a constant bet on the enhancement of those functionings with which we identify ourselves.

Chapter V

Health and disease in light of the functionings approach

Carlos Dimas Ribeiro and Maria Clara Dias

The goal of this chapter is to apply the perspective of justice outlined in the previous chapters to the sphere of human health, centered on functionings. To do so, we intend to investigate a concept of health and the health-disease process that is most coherent with this approach, incorporating the concept of vital normativity by Georges Canguilhem (1991) and the contributions of social epidemiology regarding the social determinants of the health-disease process. Next, we intend to compare the proposed perspective with the approaches by Ruger (2010), Venkatapuram (2011) and Wolff (2007).

1. Concepts of health and the health-disease process

For the functionings approach to be applicable to the sphere of health, we must adopt a concept of health and an explanatory model for the health-disease process.

Regarding the concept of health, we can generally distinguish between two theories of health and disease: a) a neutral, non-evaluative approach and b) an evaluative or normative approach (Schramme, 2007). In the first type, called *naturalism*, disease is identified as a deviation from a biostatistical norm of organismic functional ability (Schramme, 2007). In the second, called *normativism*, disease is defined in terms of “a negative evaluation of the bodily or mental condition of a person” (Schramme, 2007, p.123). Although, for some normativists, a given state may only be taken as an example of disease "if there is an individual-subjective or a social-cultural disvaluation for it," for naturalists, a disease "can be identified independently of any such evaluation, especially by reference to biological findings" (Schramme, 2007, p.123). In other words, while the naturalist approach considers the disease a fact to be identified and described, the normative approach considers the attribution of the predicates "being sick"

or "having a disease" to result from a value judgment and, as a consequence, of an individual's adequacy—or lack thereof—to normative standards, which may be social or subjective.

As a representative of the naturalist perspective, we can highlight the Biostatistical Theory (BST) of health as outlined by Christopher Boose. This theory espouses a scientific conceptualization of health, value-free, in which health is understood as "*absence of disease"* or as "*species[-]typical functioning"* (Venkatapuram, 2011, p.44).

Almeida Filho and Jucá describe health (according to the BST) as consisting of the functional efficiency of each part of the organism, so that "biological functions are seen as contributions to the attainment of given objectives—basically, survival and reproduction" (Almeida Filho, Jucá, 2002, p. 881). In this sense, any defect, deviation, or deficit "in the efficiency of one of these biological functions, either completely or partially, would be determinant of a pathological process" (Almeida Filho, Jucá, 2002, p. 881). To establish the normal functioning of each function, the BST resorts to biostatistics. This would be "the functioning expected for a given class, seen as a natural group of organisms with a uniform functional design, usually a group delimited by species and gender" (Almeida Filho, Jucá, 2002, p. 881).

Next, we intend to indicate the main criticism aimed at the BST, upon which we will base our argument for rejecting the notion of health proposed by this theory, given that it is incompatible with the perspective for which we intend to advocate.

In direct regard to the definition of health posited by the BST, Venkatapuram identifies two basic flaws. First, a notion of health in which the indices most often assessed in the scientific description of health are independent from value judgments (Venkatapuram, 2011) would be incompatible with the fact that our biological functionings are deeply determined by social arrangements. Second, the BST would not be capable of explaining our body's ability to alter its functionings to adapt to changes in the environment, not taking adequately into account "the interaction between the individual and the environment" (Venkatapuram, 2011, p.52).

Regarding the application of the BST to the field of epidemiology, Venkatapuram centers his criticism on BST's incorporation of the "multiple 'risk factor' theory of causation and distribution of disease currently

dominant in the discipline of epidemiology" (Venkatapuram, 2011, p.74). Here, his first criticism is that the BST considers only "biological endowment, individual behaviors[,] and exposures to harmful agents" as causal factors (Venkatapuram, 2011, p.88). The second criticism emphasizes that the dominant explanatory model in epidemiology is significantly limited in explaining the diseases themselves—in particular, in cases of chronic and degenerative conditions.

Pursuant to the Venkatapuram's criticisms, the BST is an explanatory model that studies the causes of diseases in human beings as individual organisms and fails to recognize the "supra-individual level factors . . . [that are] part of the longer causal chain in the production of disease" (Venkatapuram, 2011, p.76). As a consequence, "populations are understood as just a collection of individuals with no emergent properties" (Venkatapuram, 2011, p.76). In other words, "public or population health is just the summation of the health of individuals" (Venkatapuram, 2011, p.76) such that the collectivity does not generate any property of its own—i.e., any property independent of the properties already found in each individual.

Venkatapuram adds that the BST does not study the uneven distribution of diseases "in historically contingent and culturally specific social groups" and considers the concern with this type of diversity to be "normative," as opposed to the search for causes in individuals, which would be "scientific" (Venkatapuram, 2011, p. 76). The author concludes that, insofar as it is a model with restricted explanatory power, the BST has a consequently limited capacity to contribute to an adequately informed and effective health policy.

According to Barata's (2005, p.9) interpretation, the criticism that is adequate in response to those explanations originating in the theory of multicausality would not exactly be that they do not include "aspects related to the society's organization and culture as factors contributing to the production of diseases"; rather, such criticism would be that these aspects are not seen as constitutive in the health-disease process. Social, economic, cultural, and demographic factors all "are perceived as parts of a broader set of causes which include physical and biological factors into a component denoted as 'environment'" (Barata, 2005, p.9). The concept of cause, in the single- or multicausal version, would depend on the identification of independent events that are related by a one-way, specific, and necessary

connection. Such a confluence of characteristics would rarely be observed in biological and social processes. In this sense, the concept of determination, and not that of cause, would be most adequate for understanding complex social processes because it does not assume variables to be isolated or independent from one another (Barata, 2005).

Given that we now recognize the insufficiencies of a neutral or non-evaluative approach to health, as represented by the BST and its application to the field of epidemiology, we now move on and consider a normative or evaluative approach to health, as proposed by Georges Canguilhem in his book *The Normal and the Pathological* (1991).

In his book, the author distinguishes two uses for the term “normal," the first being normative—meaning “that which is such that it ought to be”—and the second being descriptive or statistical—understood as “that which is met with in the majority of cases of a determined kind, or that which constitutes either the average or standard of a measurable characteristic” (Canguilhem, 1991, p.125). In this perspective, the author develops a consistent criticism to naturalism, problematizing the theory with respect to its holding that “pathological phenomena found in living organisms are nothing more than quantitative variations, greater or lesser, according to corresponding physiological phenomena” (Canguilhem, 1991, p.42). For this author, using the notions of "excess" and "insufficiency" cover up the normative nature of the assessment because “excess or deficiency exist in relation to a scale deemed valid and suitable – hence in relation to a norm” (Canguilhem, 1991, p.56).

In advocating a normativist theory of health and disease, Canguilhem argues that life is a normative activity and understands the term “normative” as that which establishes norms; in this sense, the author proposes the concept of vital or biological normativity. Life is, therefore, a normative activity, not being indifferent to its conditions of possibility. According to his argument, “if the organism-environment relation is considered as the effect of a really biological activity”, such as an appropriation by the living being of the components in the environment that correspond to its demands, we will have before us a relationship in which the organism “structures his environment at the same time that he develops his capacities” (Canguilhem, 1991, p. 283 e 284).

This normative capacity can express itself, consciously or unconsciously, in the plane of the living organism's functional totality. In its unconscious form, this normative capacity is a spontaneous normative activity, intrinsic to life, which organizes the environment as a function of its reproductive and developmental needs, overcoming those obstacles that diseases pose to the exercise of organic functions. In its conscious form, in turn, are the cases that the organism itself considers to be pathological and that therefore call for avoidance or correction—certain states or behaviors that, in relation to the dynamic polarity of life, are apprehended as negative values (Canguilhem, 1991). Along these lines, human beings' ability to reassign meaning to suffering and seek ways to overcome it is particularly important.

To Canguilhem, living beings and the environment can only be considered normal in relation to one another, not in isolation, so that the environment is said to be normal for a given form of life if it provides for stability with flexibility such that, given the environment's vicissitudes, life may find the solution to adaptation problems. In other words, life is a set of precarious and threatened functions, protected by a regulatory system that maintains stability in spite of external disturbing influences, and a human being is considered healthy if he or she is capable of setting norms regarding his or her environment's fluctuations.

Within this concept of health as a normative capacity, disease is understood as a life norm that differs from the organic functional totality such that it tolerates no deviation from the conditions in which it is valid. In this sense, diseases are new ways for the living being to behave in relation to the environment, in which its capacity to establish other norms in other conditions has been lost or reduced (Canguilhem, 1991).

Canguilhem’s concept of living organisms, and of human beings in particular, as totalities composed of sets of articulated functions inserted in an environment in which these totalities seek to exercise their normative capacities by structuring the environment according to their developmental needs seems to us to be quite close to the functionings approach that we are proposing. In both cases, human beings can be described as complex functional systems endowed with innate capacities that, to be developed and thereafter exercised, require adequate material existence conditions. In this sense, we can consider health to be the normative capacity that operates

through a set of basic functionings that are understood as actions or states that make up a human being's way of life. This normative capacity and the exercise of basic functionings, in turn, depend on the relationship between individuals and the environment in which they live.

At this point, we must complement our approach by proposing an explanatory model for the health-disease process that is applicable to the field of epidemiology and that overcomes the insufficiencies observed in the BST's approach. To this end, we draw from the contributions of social epidemiology.

According to Barata, social epidemiology—in spite of its having different theoretical options, explanatory models, and work streams—shares the "persistence in explicitly investigating the social determinants of the health-disease process" (2005, p. 8), assuming the notion of reality as a complex totality, "hierarchically organized in different dimensions" (2005, p. 15). Several critical concepts of epidemiology developed in Latin America follow this guideline. Among the most relevant, one finds the "epidemiology of social classes" by Jaime Breilh, the theory of the "processes of production and health" by Asa Cristina Laurell, and the "theory of the ways of life and health" by Almeida Filho (Almeida Filho, 2004).

In their analysis of the different models of social determinants in health, Buss and Pellegrini Filho (2007) highlight the models proposed by Dahlgren and Whitehead and that by Diderichsen and Hallqvist, both of which seek to systematize the relationships between the many factors and dimensions involved. Included among these dimensions, depending on the models involved, are the social mode of production and reproduction, the social division of work and the labor process, living and working conditions (including access to public goods), individuals' social positions (involving social classes, gender relationships, and ethnic-racial group memberships), social support networks, lifestyles, individual behaviors, and biological predispositions.

According to Buss and Pellegrini Filho (2007), two challenges for studies of the relationships between social determinants and health still merit special attention. The first "consists of establishing a hierarchy of determinations between the more general factors of social, economic, and political natures and the mediators through which these factors affect the

health status of groups and individuals" (Buss, Pellegrini Filho, 2007, p.81). The second challenge "refers to the distinction between the health determinants of individuals and those of groups or populations," taking into account that certain "factors that are important in explaining how the differences in individuals' health status do not account for the differences among groups within a society or between different societies" (Buss, Pellegrini Filho, 2007, p.81).

To the challenges proposed by Buss and Pellegrini Filho, we add one more related to the approach we are adopting. The explanatory model of the health-disease process must be capable of considering the conditions for the exercise of basic functionings, the interactions between these functionings, and the differences in the distribution of these conditions among the social groups and individuals who are part of society. Especially important amidst these conditions are the access to social goods or resources and the conversion factors that allow individuals to transform said goods into relevant functionings, including factors in the various dimensions mentioned above. In this perspective, it is important to assess both the processes and the results achieved, emphasizing the distinction made by Sen between "comprehensive outcomes"—which include the conduct adopted, agencies involved, processes employed, interpersonal relationships developed, and other elements—and the "culmination outcomes" understood as being separate from these components (Sen, 2010).

2. The Functionings approach: divergence and convergence

We can summarize our approach relative to four fundamental components.

I. Health is the normative capacity of human beings to operate through a set of basic functionings—as a dynamic and interactive system—that, for their development and exercise, require certain material existence conditions.

II. What characterizes a functioning as basic is its centrality as a requirement for a dignified life. In this sense, such functioning could be recognized both as a condition or an environment for the performance of other functionings and as something evaluative in itself.

III. What is basic can only be empirically determined by keenly listening accurately to different voices and paying precise attention to the particular circumstances experienced by the different individuals, so that we may include various forms of functionings which, in the point of view of what constitutes the individual's own identity, must be recognized as fundamental.

IV. All individuals must have the right to health and a quality of life that offers them conditions for the development and exercise of their basic functionings. The determination of both what will be a basic functioning in each case and what level should be met by each functioning will depend on each individual's specific nature. Health, in this sense, cannot be considered a synonym of quality of life; rather, health is one of the aspects that make up a satisfactory notion of quality of life.

Given such considerations, we now compare our perspective with the proposals offered by Ruger, Venkatapuram, and Wolff.

In her book *Health and Social Justice* (2010), Jennifer Prah Ruger proposed the "Health Capability Paradigm," according to which the capability of being healthy includes "individuals' abilities to achieve health functionings" and the freedom to achieve these (p.81). The author adopts for her model the definition of health from the medical sciences, considered to be consensual, which focuses on reducing the inequity over the deficit in central health capacities—i.e., "to prevent, ameliorate and treat premature death and preventable morbidity that impedes individuals from reaching the optimal human ability for health" (p.108). To Ruger, "goods and services that are 'medically appropriate' (a term that encompasses medical necessity) to ensure central health capacities would form the base of a guaranteed benefits package" (p.177).

Ruger distinguishes "attainment equality" from "shortfall equality" and adopts the latter perspective. Whereas the first "compares individuals according to absolute levels of achievement," the second compares "shortfalls of actual achievements from the optimal average (such as longevity or physical performance)" (p. 89). To the author, a focus on "shortfall equality" would be more adequate for "assessing the health capacities of people with disabilities" because it "accounts for differences in the maximal potential for health functioning without 'leveling down' achievement goals of the entire group" (p. 90). To her, this perspective is

“more consistent with the emphases on health as optimal functioning," offering “a promising way to evaluate health policies and a right to health by whether they promote ‘equal use of the [individual's] respective potentials’," and can be applied at both the social and individual levels (p.90).

Although she acknowledges the inter-relationship between health policies and other health-related public policies, Ruger insists on focusing her model on healthcare policies in the strict sense—i.e., health interpreted as the absence of disease and disease defined according to the biostatistical theory. Such policies, in Ruger's assessment, have as their main goal reducing the inequalities in individual's capacities of being healthy, translated as the prevention of a premature death and of “preventable morbidity that impedes individuals from reaching the optimal human ability for health” (p.108).

Our approach differs from the “Health Capability Paradigm” in five aspects. First, the Health Capability Paradigm adopts a mixed perspective centered on functionings and capability—i.e., on the freedom to choose which functionings we value. In contrast, we adopt as a focus the functionings themselves, thus presuming to extend the concept of justice to individuals who cannot, at any moment of their existence, exercise freedom.

Second, for the reasons listed in the previous step, we reject the concept of health adopted by Ruger—to wit, the concept advocated by the Biostatistical Theory of Health. By adopting this perspective, Ruger circumscribes health-related public policies to a set of specific practices and excludes policies related to other sectors, such as housing, labor and education policies. Our perspective does not separate health from the totality of an individual's basic functionings. In this sense, public policies in general and health-related policies in particular must be elaborated in an intersecting manner.

Third, while the author adopts "shortfall equality," we opt for turning the focus to "attainment equality" because this perspective better incorporates the specific differences contained in the relationship that we seek to establish between basic functionings and the satisfactory expression of what each individual's nature is. In this sense, avoiding criticism of the author, we would not be leveling or fixing this attainment equality to a

minimum point but instead would be recognizing each individual's different potential. Although we cannot explore all of the advantages relative to adopting one standard of equality or the other, we believe that a perspective that seeks to provide an equal average difference between each individual's shortfalls and optimal attainment risks not taking into consideration the real weight that said difference may have in a particular life. Put differently, differences of equal magnitude, which in some cases may not significantly affect the agent's quality of life, may in other cases render it completely unfeasible.

According to Ruger, one of the advantages of the capability approach is the agent's commitment to choices and, as a result, the possibility of making the agent responsible for the life he or she has chosen. Here, we once more differ from Ruger in that we consider placing the onus of an unfair system on the agent to be a mistake. We doubt that, in the large majority of cases, individuals are effectively capable of making choices, all the more given the *background* of real alternatives.

Our last divergence from or criticism of Ruger is in her adopting the aspect of efficiency as the basis upon which to adopt health-related public policies. We seek to adopt such policies in a moral perspective, according to which any and every individual must have his or her basic functionings respected and promoted by society. The criterion of efficiency does not follow a moral paradigm. In this sense, we could imagine situations in which efficient public policies might violate an individual's moral integrity.

Sridhar Venkatapuram, in his book "Health Justice" (2011), combines Sen's emphasis on the freedom of functionings with Nussbaum's ten central human capacities. By making changes to the concept of health proposed by Lennart Nordenfelt—according to whom health is defined as the ability to achieve vital goals—Venkatapuram introduces ten central capacities as goals that we seek to achieve. By doing so, he defines the capacity of being healthy as "a meta-capability to achieve or exercise a cluster of central human capacities and functionings at a level that is commensurate with dignity worthy of the human being in the contemporary world" (Venkatapuram, 2011, p.113).

To Venkatapuram, the idea of a meta-capacity to achieve central human capacities may include a more restricted focus on disease and a broader one on health. In this sense, the author considers the capacity of

being healthy in Nussbaum's list as referring to biological functioning, whereas the set of capacities in the list would represent healthy functioning in its broader sense. In his view, the central human capacities proposed by Nussbaum make up “a dynamic and iterative system made up of the four causal components": namely, the individual biological characteristics and needs, the external material conditions, the social conditions, and individuals' behavior and abilities to convert material goods into the desired functionings (Venkatapuram, 2011, p.155). This system includes “processes occurring at various levels ranging from biological processes at the sub-molecular level within the person (endowment) to the political and economic processes at the national and global level[s] (material and social conditions)” (Venkatapuram, 2011, p.155).

Although we may recognize the importance of articulating the theoretical framework proposed by the capabilities theory with a concept of health and the models that explain its distribution in society, we diverge from the perspective proposed by Venkatapuram precisely in that we intend to focus our perspective neither on Sen's freedom of functionings nor on Nussbaum's ten central capacities. In our understanding, the interpretation provided by Venkatapuram for Nussbaum's theory ignores the central aspect that the notion of capability has in the author’s perspective: that it works to the detriment of the notion of basic functionings. To respond to the need for justice regarding the more vulnerable segments of society, we have no alternative other than to focus our theory of justice directly on the implementation of functionings. Such segments include individuals who, for biological, psychological, or even socioeconomic reasons, are incapable of making choices or exercising the freedom to choose which functionings they consider to be central for the life they wish to live. We believe that the central elements of applying the capabilities theory to health as proposed by Venkatapuram could be appropriately incorporated into an approach focused on functionings.

Wolff and De-Shalit, in the book *Disadvantage* (2007, p.37), adopt a perspective close to our own in the sense that they focus on the “(genuine) opportunity for (secure) functioning." The authors propose the “Safe Functionings Approach," distinguishing “three distinct ways in which functionings can be at risk” or become insecure (p.70): (a) “risk to a specific functioning," (b) “cross-category risk,” and (c) “inverse-cross-category risk." As an example of the first type of risk, the book presents the

situation of an adjunct professor who “lives constantly under the threat of unemployment” (p.70). The second type is exemplified by the situation of somebody who, “while relying on their income to buy food,” is under the threat of unemployment (p.70). For the third type, a situation is presented in which a person, to secure some functioning—such as nutrition—puts other functionings—such as physical integrity—at risk by accepting a job in a hazardous place.

According to the authors, the individuals in greater disadvantage are those who experience forms of disadvantage that consist of a cluster of disadvantages. This is a dynamic disadvantage cluster in which “a person accumulates disadvantages over time” and in which there is “the reproduction of disadvantages over generations” (p.120). Thus, “corrosive disadvantages” are those that have negative effects on other disadvantages, which implies establishing causal relationships between the disadvantages. The “fertile functionings” are those that, when the functionings themselves or the conditions to their exercise are ensured, “spread their good effects over several categories, either directly or by reducing the risks to other functionings” (p.122).

We further share with Wolff and De-Shalit the perception that a theory regarding our society's justice or political organization must be derived from a broad scope of sources, including what philosophers and anthropologists, among other professionals, have to say; most of all, such a theory must reflect what the public in general thinks. This approach requires that empirical investigation serve as the main source of knowledge.

3. Final remarks

Here, we have sought to sketch a profile for a concept of justice applied to the sphere of health. By focusing our perspective directly on each individual's functioning, we have sought to reject the possibility of establishing a general rule of functionings that would serve as a basis for the general establishment of priorities. We recognize that the same functioning may have different weights for different individuals and that the satisfactory realization of a life can be as diverse as the lives in question. We know that this creates a difficulty in establishing public policies, but we prefer to bear this onus to avoid abstractions or generalities, and we prefer to center our concern on the most adequate forms of access to each individual's real needs

When we consider the application to the sphere of health in particular, we seek to identify a concept of health that is more coherent with a perspective aimed at the individual's functionings. We thus advocate a normative concept of health, understood as the capacity that a system has to manage its functionings, to try to realize, in a minimally satisfactory way, the form of life that characterizes it. In this sense, we propose that the elaboration of health policies should aim to support each individual's flourishing, taking into account both his or her own potential and the most relevant characteristics of his or her surroundings. Socioeconomic adjustments will certainly have to be made to create a background that is adequate for our realizations. In addition, a way to raise awareness of each being's specific differences will have to be created so that we can better identify and meet demands. This would be an awareness produced on the basis of shared values and preserved by the educational process through which we shape the citizens of tomorrow.

Chapter VI

Mental disability in the light of the functionings approach

Alexandre da Silva Costa

To the layman, the meaning of mental disability is clear and simple: it means “[the] mental inability to do something” (Altman *et al*., 2000, p.1). However, in studies related to mental disability, there is no universal consensus as to what mental disability is (Altman, 2001, p.42). Some pragmatic definitions have been used in specific clinical circumstances and administrative programs, and several models have been recently developed, especially by the World Health Organization (WHO) (Altman *et al*., p.1-25).

Here, it is important to attempt to delimit the problem, in spite of the divergence that exists among the definitions, in an attempt to approximate the definitions and elucidate the differences among them.

One issue is that of the terminology for the entity studied in this work. Expressions such as “mental retardation/disability," “intellectual disability," “intellectual development disorder” and “cognitive disability” have been used worldwide in the main hegemonic definitions (Carulla *et al*., 2011; American Association on Mental Retardation, 2002; American Psychiatric Association, 2000). The term “retardation” is still maintained in some definitions, such as that of the World Health Organization, which serves as a guideline for the public policies developed by the 193 countries that adhere to it (1996, p.1). However, there has been a consensus that this name should be replaced, mostly due to its stigmatizing nature (Carulla *et al*., 2011; American Association on Mental Retardation, 2002). The term “cognitive," albeit more accurate, is criticized (World Health Organization, 1996) for being too comprehensive, which might lead to the inclusion of adults suffering from dementia, for example. (In the field of health, the definition of mental disability is tied to early changes in brain development.) The expression “intellectual” was proposed by the American Association on Mental Retardation (2002). This proposal came as far as

changing the name of the very institution, which in 2006 came to be known as the American Association on Intellectual and Developmental Disabilities (AAIDD, 2010). It is fundamentally targeted at certain goals: to eliminate the expression “retardation," to provide a less reductionist nature (hence the term “disability,” in a broader sense than that still exclusively used in biological views) and to try to give greater specificity to the impaired mental function. However, the strongest criticism is that intelligence is not the only thing affected in this condition. Other mental functions are also involved, especially those related to the individual's adaptability. Neither is it possible to claim that these other functions are affected due to intelligence having been initially impaired (Carulla *et al*., 2011). Moreover, what is the implication of the term “mental”? Despite its less accurate nature, this term has been used by the WHO and the American Psychiatric Association (through its Diagnostic and Statistical Manual of Mental Disorders) in an attempt to include a whole group of mental functions that could be altered secondary to such a condition. In the current revision of WHO's International Classification of Diseases, the tendency of the workgroup that is responsible for consultation on this subject (in spite of all the above) is to use the term “intellectual development disorder” or “intellectual disability” (Carulla *et al*., 2011).

Given all the above, the expression “mental disability” will be used here. First, we adopt it with the intention of privileging the phenomenon's comprehensive nature at the level of the mind (because the involved mental functions extrapolate upon intelligence, *per se*). Second, we adopt it because, as will be seen next, a non-reductionist position—i.e., a view that is not bound merely to the organic— is advocated here.

1. Redefining mental disability

Dias (2014a) state:

> “Direct emphasis on functionings, however, allows us to include those who will never develop some specific capabilities, such as freedom, as understood in its most fundamental form—i.e., autonomy or the power of self-determination.”

This point is of great interest to the case of mental disability. When Ribeiro and Dias (2014) propose that a perspective centered on functionings be applied to health, they assert a combination of four basic components.

In the following, we paraphrase the aforementioned concept and apply it to mental disability.

I. Mental health is a normative functioning of human beings, relative to their multiple mental functionings (for example, cognition, memory, affectivity, attention, concentration, and will), operating through a set of basic functionings (as a dynamic and interactive system) that, to be developed and exercised, require some given conditions of material existence. For example, a brain that has been fullyformed is a material existence condition for some functionings, such as being capable of voluntary movement, in the case of a school–age boy. For a brain to be fullyformed, the presence of other functionings is necessary: being able to adequately feed oneself and being able to attend a school in which such mental capabilities will be stimulated in their development are some of the required functionings. Such a concept would be closer to that established by WHO, in which health is not only be the absence of disease; such complexity presages how, for example, the paths of justice and health may intersect.

II. What characterizes a functioning linked to the mind as a basic one is that it is a central requirement for a dignified life, fully realized and constitutive of the individual's very identity. In this sense, such functioning might be recognized both as a condition or means for the realization of other functionings and as something valuable in itself. Along the lines of the previous example, good voluntary motor control is a basic functioning for that schoolboy because it allows him to perform other functionings that are important for his life's dignity (for example, practicing sports, which ends up helping in defining his very identity as a given functional system), in addition to being something valuable in itself (to him, being able to move).

III. What is basic, in terms of functionings connected to the mind, can only be empirically determined by keenly listening to different voices and by paying refined attention to the particular circumstances experienced by many individuals so that we may include various forms of mental functionings that, from the point of view of the very individual's identity constitution, should be recognized as basic. The exceptional memories of

chess players (as occurs with those who are labeled as being "*highly gifted*") do not seem to reflect a basic functioning for a schoolboy who does not play chess. However, the memory that the vast majority of human beings possess is a basic functioning for them.

IV. All individuals should have the right to healthy minds and a quality of life that offers the conditions for the development and exercise of the basic functionings that are related to their minds, at least above a minimal threshold required for human dignity. An epileptic boy who has no access to outpatient care for the treatment of his convulsions has his dignity compromised (because it is below that minimal threshold), because he no longer can achieve his own identity as a fully realized functional system and, therefore, has access to health denied to him.

2. Comparison of the model based on functionings with others, with respect to concrete cases

Such a health model is very different from the biomedical, social, and complex ones (which seek to integrate features of the first two). For once, there is a certain dynamism that the model based on the functionings approach brings to it: disease is not a pure, *intrinsic* state of being, but rather "a way to function" when the basic functionings are not achieved. It depends on whether an individual achieves its basic functionings in a given context. One cannot be said to be (intrinsically) *mentally disabled*, but one can at any moment functions like *a* mental disabled. This same model can be applied at collective levels: a given society or a given group may be sick when its members do not reach that minimal threshold that is compatible with that society or group's dignity. As a model, it proposes the possibility of knowing who, in a given moment, is mentally disabled and to reach the problem of causality.

Let us look at five cases in an attempt to illustrate the adequacies of this approach. These (true) cases come from my 20 years of experience in a neurology clinic for children and youths.

A) Carlinhos, 14 years old, has Down syndrome. In Intellectual Quotient (IQ) tests, he shows mild mental disability (IQ between 50 and 69). The biomedical model seeks to explain how he, given his brain

condition (also called a impairment), has “retardation" or a “delay” in his mind, which makes him incapable of carrying out some tasks, something that does not occur with individuals said to be “normal"—i.e., those who do not have such alterations in their brains. This model further says that Carlinhos could improve considerably through inclusion and support therapies, but he will always display mild mental disability. This outcome is realized, as demonstrated by his getting a job as bagger in a groceries market. When asked about his disability, he smilingly replies,

> They say I'm disabled and that I have intelligence below what is normal. However, to me, I have normal intelligence, and I am not disabled. I cannot imagine an intelligence greater than mine because I cannot think more than I do think; and all the things that I want to do, with training, I can do them . . . . Of course, I cannot do many things that other people do, but isn't it like that for everybody? Doesn't everyone have something they can't do? Maybe everyone is disabled?[9]

B) Tainara is a 10-year-old girl. Due to a lack of adequate oxygenation at birth, she was born with brain ischemia. Having a below-normal IQ (in a test taken at age 5), she was referred at a young age to neurological rehabilitation. Today, she can perform all of the tasks expected of a girl her age. To the healthcare professionals who attend to her care, she does not show evidence of any sign or symptom of disability. “*She has recovered well*," says her mother.

C) “*Bill*” (a nickname for Severino[10]) is a doorman in Copacabana. Coming from a humble family, he nonetheless managed, thanks to his godmother's help, not to starve and to have access to reasonable medical care. However, in terms of formal education and other opportunities, he was not as “lucky” (thus quoted because, as we shall see, “unfairness in health” is denoted as “bad luck"), as he is functionally illiterate. When assessed through IQ tests (which try to take into account this functional illiteracy), Bill displays a level of intelligence that would be above what is deemed “mentally disabled.” His neurological evaluation shows that his brain is normal, with no sign of impairments. However, he cannot do many things; he frequently makes mistakes in his sequence of chores and confuses messages left with him, which on top of everything

else makes him the focus of ridicule by the condo building's tenants. Although medicine tells us that Bill's brain is normal, it becomes clear that, at the level of functionings, he “acts” and “lives” as if he were mildly mentally disabled or, in the “best” of hypotheses, is at the threshold of being mentally disabled.

D) Débora is a 15-year-old girl born with microcephaly (an extremely small brain). Her IQ test score is 10, compatible with a severe or deep mental “delay” or “retardation." An influential and rich family allowed Débora to have access to countless resources, which contributed to her survival. Débora can tell close relatives from strangers and recognize smiles, but she does not sit, walk, or talk. Her understanding of words is almost nonexistent (tone and familiarity of a voice are the most significant markers for her).

E) Guilherme Luiz is 10 years old. An evaluation by a healthcare team was requested on account of his failure at school. After he had to repeat several grades, the school staff and his family thought that he might have some mental disability, also taking into account his extreme difficulty in learning. However, IQ tests and evaluations gave a surprising result: according to the tests conducted by the healthcare professionals, he was highly gifted (with an IQ of 156)! By changing the educational techniques applied to him, his interest increased, and learning began to take place.

Now, we shall juxtapose the old models with the one based on functionings in the context of each case presented above.

A) From the biomedical viewpoint, Carlinhos would be disabled because he has a brain impairment. (As was previously described, this impairment is postulated, even if scientific investigation has not yet been able to locate it.) The diagnosis of the situation is static: Carlinhos <u>is</u> disabled, intrinsically and permanently. The model predicts improvement of his condition through two basic mechanisms: improvement of the impairment through treatment (which would never actually “cure” the lesion) and improvement in performance through the facilitation of his life (for example, having a tutor or being granted longer time when taking exams). However, the static diagnostic remains: Carlinhos will be able to

improve markedly and may even seem to be normal; however, he is and always will be a disabled individual. This carries a "label" component in it: regardless of what Carlinhos may be able to do, he will always be disabled. It is akin to someone telling another: "*Look, you are doing great, but you are disabled*." There is a heavy load of prejudice that does not take into account what he can do or be (i.e., his functionings). One could claim that Carlinhos might need social support to maintain the integrity of his functionings and that, *pour cause*, the label of disability would be necessary. As to the first part of the argument, there is nothing with which to disagree: it is indeed part of this integrity's maintenance, with all this support being expressed through countless social mechanisms that we shall mention later. However, in order for this to occur, it is not necessary to "label" someone as something he or she is not. In what sense is he disabled? If he adequately carries out his functionings (in spite of having a "lesion"), the maximum category into which he might be fitted would be "he *has a genetic syndrome*." Such a category would suffice for triggering said support and prompting continuous reevaluation. This model's fragility (which, for some, is not even relevant) resides in several points: in fact, the stigma would remain even if Carlinhos's behavior were to closely approximate that of a "normal" person. This gives too much value (a curious notion in a model that presumes to be "neutral" and "without values") to biological issues to the detriment of their inter-relationship with social arrangements: because Down syndrome's impairments do not have a cure at the present time, it does not take Carlinhos' adaptability to the environment seriously (in the sense of internal coherence of the model). A doctor once said: "*Carlinhos is even behaving like a normal person, but this is not the fact*." Even if Carlinhos had not achieved his basic functionings (as in the previously given definition), the model considers him to be disabled due to the presence of the syndrome at hand, not based on what he does or does not do. What happens in this case is an "overvaluing" of the organic in a purportedly "neutral" model. This is curious because medicine itself has created growth plots and curves that are specific to these cases. (Because people with Down syndrome have smaller statures, these specific growth plots allow one to check whether an individual with Down syndrome is below the expected "normal.")

From the point of view of the social models, Carlinhos only has this disability because society cannot adapt to him, or rather: if sufficient social

inputs and processes were granted to him, Carlinhos would be normal. Although this may seem more satisfactory than the previous model (because it recognizes that his functionings are not being achieved because of inexistent or insufficient social processes), the criticism stems from a relatively puerile attitude when one attempts to deny the existence of an organic condition that is found in Carlinhos and which will draw more attention further on, in the case of Débora.

And, what about the models describe as complex, which seek to better understand the body-environment interaction? All of them start from the existence of a body impairment that, in a two-way system of influences and feedback with the environment, would end up generating the disability phenomenon. If this takes place in the intellectual field, one has mental disability. The models from the WHO and Nagi are typical and more well-developed representatives of these models. Because they are quite similar to one another (the major exception being the problem of “expected roles,"), they will be addressed jointly under the overarching concept of complex models. In case of the existence of any specificities, these shall be noted. Despite stating that the possibility of adaptation will always be compromised, complex models state that this cannot occur in the case of mild mental disability. Alternatively, the complex models state that, in the case of mental disabilities, adaptability will always be affected (World Health Organization, 1996, p. 1; Nagi, 1991, p. 38), but in some cases (for which said models do not provide an explanation), it is not. Here is a misconception in the definition that seems to compromise the diagnosis itself. It sounds like a great hurdle in the matter of internal coherence. This seems to replicate in part the biomedical model's mistake: it is still insufficient. It does not take into account the patient's doing or being; it compromises adaptability (“*how can somebody adapt if organic elements are compromised?*”—the key question in complex models, which clearly reflects the strong influence of its “ancestor," the biomedical model).

B) What about Tainara's case? According to the biomedical model, because the impairment (the brain “scar”) persists, Tainara (even if she functions optimally) will always be the bearer of some mild mental disability. Is that not strange? Tainara is doing well with no detectable

sequelae; nevertheless, she is seen as disabled. The objections are similar to those of the previous case.

As for the social models, the criticism in this case is also similar to those in the case of Carlinhos.

The complex models (such as WHO's model), in an attempt to support the definition they provide (in stark opposition to the empirical data), tell us that, even though Tainara's adaptability may be compromised, it also may not be (!?), which would allow her to develop normally. Furthermore, the criticisms made in Carlinhos's case also apply here.

C) Bill would not be disabled according to either the biomedical model or the complex models (i.e., the brain is normal, and there is no impairment). In addition to the criticism previously presented, the most significant challenge arises from an observation that the aforementioned models do not consider: Bill cannot adequately exercise his basic mental functionings at a minimal threshold! In fact, he behaves as a mentally disabled individual. He cannot carry out activities or engage in existential conditions (the "being able to do" and the "being able to be") that allow him to have a dignified life, to the extent that the construction of his very identity is compromised.

The social models would not have any difficulty recognizing Bill as being mentally disabled.

D) Débora is mentally disabled in the eyes of the biomedical and complex models. The criticism made to these two models still exists, in two respects; the static aspect remains. It does not take into account, for example, the possibility of *enhancements* that might alter Débora's brain. Débora, according to these models, is mentally disabled. It is the persistent nature of these models to still seek valuation of the organic aspect.

According to the social models, their puerile attitude is here even more visible insofar as these models consider Débora to be disabled only due to non-action (or ineffective action) by society. The organic condition in this case is recognizably severe, and for the current stage in which the

world's scientific advancement finds itself, it is difficult not to visualize the significant role played by this specific type of brain impairment. Although, in Débora's case, social aggravating factors may worsen her disability (for example, if her family does not obtain resources with which to nourish her, her disability might become worse), the model as a whole seeks to deny her individual characteristics as factors in the disability process.

E) And what about Guilherme Luiz? According to the biomedical model, there is no impairment; therefore, there is no mental disability. WHO's model states that he is "highly gifted" (or has "high abilities") and that he does not learn because the school was not helpful to him. This means that there is nothing wrong with the child. Thus, there is no mental disability. However, a question remains. The boy, the family, and the school see him as disabled. Is this an illusion? It is a curious illusion because the epistemological data show that boys like him are at greater risk of developing conditions such as low self-esteem, drug addiction, learning difficulties, and depression (Rech, Freitas, 2005). What do these models fail to address? Let us try to retrace their argumentation: the boy has a normal brain; therefore, he is not disabled. However, he cannot properly exercise his functionings (i.e., his social surroundings perceive him as mentally disabled; he has had difficulties learning, in addition to difficulties with other school-related skills). This would have happened were the school not able to effectively elicit the full potential of a impairment-free brain. In fact, he has an enormous risk of developing severe psychological problems. However, he is still normal. There seems to be something very strange about this whole story. That "*complete physical, psychological well-being*" preached by the WHO itself is not being contemplated here. Guilherme is healthy? It does not seem so. However, the social model would have no difficulty seeing Guilherme as mentally disabled, the sign of a society that is not working to meet the individual's needs.

Because the biomedical, complex, and social models reveal themselves to be mistaken or insufficient in some or all of the cases, let us move on to adopt a view of basic functionings in each case. Such a perspective can diagnose the five cases as being those of mental disability, albeit within a dynamic context. This nature expresses itself in the analysis

of the causality of disability in each case. Carlinhos, Tainara, Bill, Luiz Guilherme, and Débora are all suffering from mental disability at some moment, but they are ***not*** intrinsically mentally disabled. Let us see the related arguments.

A) Would it not be more satisfactory to say that Carlinhos, instead of "being" disabled, "was" functionally disabled regarding basic functionings from the mental point of view that, aside from being deemed important to himself, signal his dignity (i.e., he could achieve a full realization of his nature, his self-recognition, and his role in the body of society, all constitutive of his own identity)—functionings that he achieved with effort and in participation with his surroundings, of which society is a part? His disability reflects a deeply problematic interaction between unfair surroundings and his functionings (somehow connected to the syndrome he has), which was causing him not to realize these basic functionings. Given access to social processes and resources, he was able to work as a bagger. Of course, as he himself says, there are functionings he cannot exercise. If Carlinhos would have achieved the basic functionings for his case, he would have ceased to be disabled and would so remain as long as his body-environment combination continued to promote the development of said functionings. Such a condition remains in spite of his having a condition (viz., his genetic heritage) that cannot be changed at the present moment. There are several examples of genetic syndromes for which there is the possibility of treatment[11] to neutralize their symptoms (as is the case, for example, of *Gaucher's* syndrome [12], for which a missing enzyme is administered) or at least minimize them (e.g., folic acid in the case of fragile-X syndrome[13] or cognitive rehabilitation in many other cases). The diagnosis is still a dynamic one: *Gaucher's* sufferers only started receiving this treatment (which, unfortunately, remains denied to some) in the 1990s. Before then, people with *Gaucher's* syndrome would present several situations in which the absence of certain functionings—viz., basic mental ones—would be evident. Since the enzyme became available, those who managed to have access to it have arrived at a condition in which the disability does not exist, even if they have the "*impairment*." The important point here is that these persons' functionings can be affected in many cases. When this occurs, previously nonexistent basic functionings come into existence: they had the disability, and then they do not have it anymore. Of

course, they manifest personal characteristics reflecting the fact that they require different social processes and resources compared to most people (for maintaining said functionings). But, as already been noted, there is nobody on the face of the Earth who does not need something to be healthy. Carlinhos managed to learn this (and they still say he is disabled), as shown by his statement that there is always something that everyone is not capable of doing. One might add that, when an individual does accomplish something, it is because there was a given combination between the individual (or the group or the societies) and his or her surroundings that, in the end, worked in such a way as to allow the individual to achieve said functionings (including basic ones). As in the case of diabetes mellitus, which was not a disease (but was, rather, a salvation) in the Ice Age, but became a disease in modern times—or better said, those who had diabetes in that frozen world managed to have basic functionings while having it. Conversely, in the present day, to maintain basic functionings, one must resort to the use of certain substances or a dietary adjustment to survive. (This obviously includes the surroundings that might or might not permit one to have access to such resources.)

B) Tainara (in spite of her brain impairment) managed to cultivate surroundings that have provided her with resources to allow those functionings that keep her life dignified to exist: she is not disabled at the present moment. This impairment (or any other factor, not necessarily a biological one[14]) will require that society attends to her special needs with regard to the maintenance and development of her fundamental functionings (not only in her case, but in any other similar one). This brings us the collective view of health, which focuses not only on the individual but on the group. *"However, she is disabled because she has the impairment!*" says the common lay interpretation. But is she? In the health model based on basic functionings, she would not have a disease. She would have a condition that requires special care. Another set of persons worthy of special care would be pregnant women, and they do not have a disease (unless their basic functionings are lacking); likewise, the adolescent, who is still growing, requires special attention, but he is not labeled as being sick. Indeed, this holds for all those belonging to certain groups that share common characteristics (in spite of having enormous

differences in other aspects) and demand special care from their surroundings so that they can achieve their basic functionings—just like Tainara. The dynamic nature is still contemplated by this model: Tainara is not disabled at the moment; however, the care she receives must not be interrupted because she may become mentally disabled if the surroundings stop providing her with adequate conditions for the maintenance of her basic functionings.

C) Bill is, at the moment, clearly mentally disabled: his basic functionings at a mental level have not been and are not being guaranteed. The functionings approach, different from the biomedical and complex models, would have much to say about him. What does it matter if Bill's brain is “normal," when he cannot in fact achieve basic mental functionings? Someone could say that Bill's case “is not a medical one." Indeed, it is not essentially a medical case. (Of course, the presence of a healthcare professional, for example, would be necessary to evaluate his brain, without discarding the possibility of Bill coming to face difficulties in the emotional field that cause him to require, at some moment, professional medical care.) However, health cannot be reduced to a specific piece of professional information. Any healthcare professional who is truly interested in the health of the so-called patient knows that it is not enough to prescribe antibiotics for a person with pneumonia to get well. It suffices that this person cannot afford the medication, that the state does not supply it, or that his or her immune system does not work adequately; in short, a series of conditions arise in the patient-environment inter-relationship that, when they cease to exist, may cause the “patient's” situation to get worse, which will cause him increased suffering (in addition to affecting the patient’s family and society). Therefore, it seems clear that, in this case, it is the basic mental functionings that matter (or at least should matter) to Bill and to the whole of society—these deficits of functionings are what put him in a state of mental disability. The model centered on functionings also manages to diagnose the condition (and this is not merely a “label," given the prescriptive nature of the care provided to Bill: he is currently disabled and he needs help)—something the biomedical and complex models could not do.

D) Débora is also disabled according to the model advocated here: the body-environment interaction does not allow her to achieve the basic mental functionings necessary for a dignified life. In this case, the model at hand admits the (current) impossibility of achieving such functionings. However, recall the dynamic nature of disability: she may come to achieve these functionings by means of new technology involving stem cells or just as well might lose the mental functionings she currently has (e.g., smiling to her relatives when she recognizes them) if other basic functionings are denied to her (that of nourishment, for example). The advantage of the functionings model in this specific case, compared to the social models, lies in the inexistence of the puerile attitude advocated by the latter: the functionings approach recognizes the severity of the lesion but centers itself around the fact that basic functionings not existing at a mental level is what grants the current mental disability's *status*. As will be seen next, this model recognizes the exclusive participation of the surroundings in minimizing or aggravating said disability.

E) Guilherme Luiz, his family, and society (except for those members belonging to the field of health care) know that something is not right regarding his basic mental functionings. Because of this, they say he is mentally disabled. Indeed, basic mental functionings are not being guaranteed for this boy. The functionings approach implies that he was mentally disabled. Upon reviewing the case, when new combinations between him and his surroundings were promoted, the disability ceased to exist. The similarity with Bill's case is enormous. However, there is also something curious to it: Bill (according to the biomedical and complex models) has a normal brain; Guilherme Luiz has a "supranormal" one. Only the functionings approach was capable of diagnosing mental disability in both cases (in addition to providing a causal explanation), showing the relative inefficiency of those two aforementioned models.

From the point of view of the approach here advocated, mental disability would occur when functionings that are basic for the human mind do not exist or exist to an insufficient degree or number for the individual to have a dignified life—i.e., the full realization of "his/her nature, his/her role

in the social body, his/her self-recognition and the way in which others recognize him/her" (Dias, 2012a, cap. 8, item 2).

Alternatively, one could say that the absence of any of these basic functionings would compromise the very identity and existence of that being as a functional identity. Such functionings are composed of others of relative less complexity (for example, the functionings of some neurons per se or the ability to feed oneself) and of others of greater complexity (their functioning within society). These functionings always emerge from the relationship between the individual (or a group or a society) and his or her surroundings. Once again, the surroundings refer to everything that is outside the individual, the group, or the society.

The "Carlinhos-environment" relationship allowed him to improve his basic functionings. Carlinhos is not going to be mentally disabled if his basic mental functionings are achieved.

The "Tainara-environment" relationship allowed her to achieve basic mental functionings. At the moment, she is not mentally disabled.

The "Bill-environment" relationship was not and is not efficacious, in spite of Bill's brain being normal. Bill is, at the moment, mentally disabled.

The "Débora-environment" relationship has not been efficacious, in spite of all the participation by society. Débora is disabled at the moment.

The "Guilherme Luiz-environment" relationship was insufficient (which caused him to be mentally disabled). Later, the mental disability disappeared.

The functionings approach therefore allows us, with a greater degree of efficiency compared to other models (including WHO's model), to define Mental Disability at another level: that of the absence of mental functionings that are basic for human dignity.

However, with the WHO's model in view, one fact draws our attention: it has objective criteria by which to define mental disability, which are determined by healthcare professionals.

Someone might ask: which criteria would be used to define mental disability according to the functionings approach? And who would supply them? The answer would have at least two parts.

The first would be that, by identifying X, Y, and Z as basic mental functionings, there would be the risk of establishing a type of "list of universal functionings" in a "*Nussbaum-style*" manner. The inconvenience this represents for the functionings approach to be taken seriously has already been asserted—this approach seeks to maintain internal coherence as a model. However, would this not lead to a total lack of objectivity? How can the absence of criteria allow for the definition of a case of mental disability?

The second part seeks to invalidate the assumption in this last question. There is no absence of criteria in a correctly applied functionings approach. There is a very objective criterion: the five cases illustrate that mental disability could be detected in all of them. How? All had in common the reduction or absence of basic mental functionings. Moreover, it was not difficult to identify these reductions or absences. Being open to the countless experiences of a given individual (or of a group or society), expressed by varied sources, allows one to identify which basic functioning(s) exist. The problem is that, in general, for issues regarding healthcare, it is common to resort exclusively to healthcare professionals for the identification of elements that may facilitate a diagnosis. Of course, these professionals' roles are extremely important, but their opinions should not be the only ones relevant in this definition.

In Carlinhos' case, he himself (to some degree), his family, the healthcare team, and society voice their perspectives to help identify which fundamental functionings are still nonexistent, similar to what happened with Bill, Guilherme Luiz, Tainara, and Débora. Even when healthcare professionals said that Bill and Guilherme Luiz did not have "*any problem*," it seems that they and their families had something to say in the light of the so-called "public reasons," challenging the inexistence of mental disability. When it was postulated that Tainara was still disabled (despite her doing well), this judgment was difficult to believe, for those same reasons. And it was still these reasons that allowed both the basic functionings and the WHO approaches (now converging) to contribute to identifying Débora as having a disability.

The WHO itself seems to be moving towards the functionings approach. Three developments seem to indicate why.

The first has to do with the publication of the *International Classification of Functioning, Disability and Health* (ICF) by the World Health Organization (WHO) in 2001, which was considered to be a landmark in the discussion of disability. The document is a revision of the *International Classification of Impairments, Disabilities, and Handicaps* (ICIDH), the first attempt by the WHO to develop a universal language about impairments and disabilities, which was published in 1980. Disability now has a social and political nature. Until the publication of the ICF, the view adopted by the WHO fully reflected the biomedical model. To contemplate such characteristics is also part of the approach advocated herein, as has been seen, because functionings arise from the interface between the individual (or group or society) and his or her surroundings.

The second development is a widening of the spectrum of criteria that would define mental disability according to the ICF. Its definitions began including spheres such as the environment, social activities, and participation in society. This means that, although physicians still have the final word (which the functionings model does not accept), "listening" to others' "voices" from contexts beyond that of healthcare is occurring. All of this is taking place in light of what the individual is not managing to do or be. Said differently: the WHO is recognizing the need to include a larger number of nonexistent functionings. In spite of the restriction to possible universal lists and the prioritization of sources of knowledge (e.g., the WHO model prioritizes the medical source), the functionings approach perceives these spheres as voices to be heard in detecting which mental functionings would be basic in a given context.

The third development is a most curious one: individuals with Down syndrome have "their own, personalized lists" fostered by the WHO (STYLES et al, 2002) by which to evaluate their disabilities. These are growth and neuropsychomotor development charts particular to those with the syndrome.

Therefore, it is possible to make concessions and to try to adapt to individuals, groups, or societies while defining disabilities without resorting to universal lists. The functionings approach sees this as a practice that should be constant: in truth, for each individual-group-society, there is a

dynamic group of basic mental functionings that can provide them with a dignified life.

As seen here, this dynamism, instead of being a problem to be solved, is part of the solution in facing the problem of defining mental disability, as well as other contributions of the basic functionings approach to this issue.

3. For a perspective centered on basic functionings: contributions to quality of life and justice

In this context, the WHO's model stands apart from other models for mental disability (viz., the biomedical and social models) because it is concerned with a vast array of functionings in a person's life. It is important to note that the term *functionings* has different meanings in the WHO's model and the basic functionings approach. For the WHO's model, it includes functionings that are directly related to health (i.e., functionings of the body and structures) as well as activities and participation in the ambit of life (for example, education, self-care, labor). The concept of functionings in the perspective advocated here is more comprehensive in the sense that it includes activities (for example, playing soccer), as well as states desired by people (for example, being able to do something), and it can be general (for example, not being thirsty) or specific (for example, drinking wine). The array of functionings considered by the WHO includes some that may be relevant for mentally disabled individuals. As such, the ICF can be understood as a restricted application of the functionings approach. It is said to be "restricted" in two fundamental aspects. The first is that the genesis of the ICF did not contemplate the countless voices of concrete cases as empirical sources for the functionings which were held to be important for the community that generated them. Such is the problem of "universalizable lists." The second is that, due to its continued organic genesis (the ICF is proud of inheriting positive aspects of the biomedical and social models), the obligatory need for a brain impairment limits this model in diagnosing (and, therefore, leading to rehabilitation) real cases of mental disability.

In practice, studies have shown that an individual's capability is often difficult to observe; the data more commonly available data pertain to functionings (Comim *et al.,* 2008, p. 157). These additional data further

reinforce the reach of the functionings approach in comparison to approaches based on capability.

Some studies, such as those by Walker and Unterhalter (2007, pp. 197-199), have sought to evaluate how children value their capability—in particular, in the context of education. It must be noted that the target population consists of beings who are mostly similar to the mentally disabled from the point of view of relative freedom in their functionings. Studies of Italian children (Walker and Unterhalter, 2007, pp. 200-202), similar to others performed in Nepal (Bakhshi *et al.,* 2011, pp. 62-70), have sought to study the possibility of creating specific lists of functionings held as basic in a given community by including the voices of the children themselves in the analyses and taking them into consideration. Once more, one could have the false impression that one is writing about capability. However, the topic to be studied is related to basic functionings. Additionally, in a community in Uganda (ANICH *et al.,* 2011, pp. 107-118), studies have been able to show (through an empirical search for basic functionings) the possibility of social progression, assistance in economic development, and, in some cases, broadening of support and rehabilitation networks for disabled individuals, including mentally disabled ones.

Chapter VII

Analysis of the Process of Sex Reassignment in Light of the Perspective of the Functionings

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This chapter aims to evaluate, based on the principle of justice, the suitability of using the perspective of the functionings for an assessment of the Sex Reassignment Process.

To meet this goal, the chapter has been divided into 4 sections, namely: (1) Transsexualism: Conceptualization of the Terminology, (2) A Brief History of Public Policies Oriented Toward Transgender People, (3) The Perspective of the Functionings and Transsexualism, and (4) Concluding Remarks.

1. Transsexualism

The term "psychic transsexual" was first used in 1910 by Magnus Hirschfeld, who has been cited for the first surgical and hormonal sexual reassignment (Castel, 2001). In Brazil, the discussion of the issue of transsexualism began around the 1970's (Ventura, 2010).

According to Bento (2008), the term transsexualism refers to an identity experience characterized by a conflict with gender norms. These are men and women who claim to recognize that they have a gender to which they do not feel they belong. In medical terms, transsexualism is defined as a mental illness, as can be seen below:

> A desire to live and be accepted as a person of the opposite sex. This desire is normally accompanied by a feeling of malaise or unsuitability in reference to one's own anatomical sex and the desire to undergo a surgical operation or a hormonal treatment to make one's body as much as possible like the desired sex. (Brasil, 2008a, p.71)

That is to say, it is the characterization of a person with a permanent disorder, who does not see him/herself belonging to his/her sex and, therefore, rejects it. Despite the risk of harming him/herself, s/he seeks the

transformation of his/her body to adapt it to that feeling. This definition is quite similar to the definition of Harry Benjamin in his 1966 book, *The Transsexual Phenomenon*, in which the transsexual is recognized by the request for sex reassignment surgery (Castel, 2001). In this sense, the transgender person[15] is classified by and receives a diagnosis of gender identity disorder in order to have his/her right to a bodily change recognized.

This condition of not fitting in one's biological sex, and therefore not fitting into the prevailing social norm, creates a state of suffering. The individual becomes the target of prejudice, exclusion and social constraints that generate "social, ethical and legal damages that directly affect the lives of these people" (Amaral, 2007, p.72). Therefore, the transformation of their bodies is necessary and real, through hormone therapy, surgery, and other procedures, such as a name change, with the goal of ensuring their citizenship.

The creation of public policies aimed at meeting the needs of these persons would have the purpose of emancipating them beyond merely respecting their sexual decisions, since it would generate "self-esteem, a new perception of citizenship and control over their own lives in other areas such as health, education, employment..." (Arms, 2008, p.61). In other words, it would contribute both to the bodily changes of the transgender person as well as to his/her reintegration into society as a citizen, turning him/her into an agent, a term that, as defined by Sen (2010a), designates someone who acts and brings about change, and whose actions can be judged according to his/her own values and objectives.

In 2007, after a long trajectory, the so-called Transgender Process was enacted. This process is a public health policy that regulates, through the Unified Health System (known in Brazil as SUS–*Sistema Único de Saúde*), care for transgender people with the aim of carrying out genital reassignment surgery. This trajectory and its ramifications will be briefly described below.

2. The Transgender Process: A Brief Historical Overview

Starting in 1980, with the emergence of the AIDS epidemic, the first governmental actions for the LGBT population were undertaken, taking shape in public policies that attempted to minimize the effects of the disease

(Arán; Murta; Lionço, 2009). The focus at that time was to combat AIDS and only later did public policies begin to be organized with a comprehensive view of health (Perilo; Pedrosa, 2010).

In 2004, the Program Against Violence and Discrimination Against LGBT (Lesbians, Gays, Bisexuals and Transgender People) and for the Promotion of the Citizenship of Homosexuals called *"Brazil Without Homophobia"* was launched, with a central focus on violence and with the objective of promoting citizenship by combatting discrimination and homophobia (Perilo; Pedrosa, 2010). A product of political, social and legal advances, it was considered at the time "a historical step in the fight for dignity and respect for differences" (Brasil, 2004, p.7)

The policy was comprised of eleven programs and actions. One of these actions was the creation of the Technical Committee on "Lesbian, Gay, Bisexual and Transgender Health," under the Ministry of Health, charged with the formulation of a National Health Policy for this population. Within this Committee's working agenda, one of the noteworthy points is the "discussion to update the protocols related to sex reassignment surgeries" (Brasil, 2004, p. 23).

In 2005, another important step in the development of the Transgender Process was the First National Campaign for Transsexualism and Public Assistance in Brazil, which aimed to:

> analyze and discuss the issue of Transsexualism in all its entirety and ensure a national, regional and local ethical commitment to increase coordination and intensify local and national initiatives for the treatment and care of transsexualism (National Campaign for Transsexualism, 2005, p.1).

According to Amaral (Amaral, 2007, p.52), it was discovered during the National Campaign for Transsexualism that most of the services that carried out procedures for transgender people organized the care according to a psychiatric concept of transsexualism; a single treatment protocol for care did not exist either for surgical or therapeutic procedures. The makeup of the multidisciplinary team was diverse and the functioning of each service varied according to the multidisciplinary team and the contracts or partnerships that had been established. At the end of the National Campaign for Transsexualism, during the preparation of the final document, several recommendations were identified, notably: the establishment of unified guidelines for the care of this population and a single protocol for the

network of public health services; the incorporation of gender reassignment surgical procedures in the Unified Health System's (SUS) list of procedures and placement of hormones on the list of special drugs paid for by SUS; and the lowering of the age for entry into the Transgender Process from 21 to 18 years (National Campaign for Transsexualism, 2005).

In February of 2006, the Technical Committee on LGBT Health held a meeting with the theme being the Transgender Process at SUS, where the development of a protocol for the counseling and evaluation of transgender people was discussed, along with the criteria for carrying out other surgeries of secondary traits, the distribution of specific medications for this group of people, and the inclusion of the genital reassignment surgery in the SUS's list of procedures, among others.

In 2008, Ordinance 1707 was enacted, establishing the Transgender Process in the SUS, to be carried out by relevant services called Specialized Care Units (Brasil, 2008b), duly authorized to provide comprehensive health care to individuals who require it. According to the ordinance, the actions of the Transgender Process would allow: (1) integrality, so as not to base the therapeutic goal primarily on the surgical procedure; (2) humanization, aiming at care free of discrimination and with respect for differences; (3) carrying out projects related to the evaluation of the process; (4) the continuing education of health care teams at all points of care. In support of the regulation of the Transgender Process, Ordinance 457 was enacted a few days later, covering the norms for the accreditation of the health care units, the inspection form to be used by management, the specialized care guidelines for the transgender process and the list of authorized services (Brasil, 2008a).

These two ordinances were based on Resolution 1652 of the Federal Council of Medicine, from the year 2002. Here are several points from its contents:

1. The experimental nature of genital reassignment surgery and complementary procedures relating to gonads and secondary traits for transgender men (Federal Council of Medicine, 2002, p.3). This causes the exclusion of transgender men from public policies concerning the transgender process, and access to the surgery may only occur in university hospitals or public hospitals devoted to research.

2. The criteria for the diagnosis of transsexualism, which are:

> 1) Discomfort with one's natural anatomical sex; 2) The express desire to eliminate the genitals, give up the primary and secondary traits of one's own sex and acquire those of the opposite sex; 3) Ongoing continuation of this disorder for at least two years; 4) The absence of other mental disorders (Federal Council of Medicine, 2002, p. 4).

3. The determining criteria for the implementation of the procedures prescribed in the Transgender Process for transgender women are: a minimum period of 2 years of care "as a condition for performing the surgery, as well as reaching adulthood and a diagnosis of transsexualism" (Brasil, 2008a, p.14).

It is noteworthy that after the entire period of care, the transgender person may or may not have the necessary "certification" of his/her diagnosis of gender identity disorder, or, in other words, may or may not be considered a transgender person. The threat of not being considered sick, and thus not being qualified to enter the Transgender Process, "keeps the transgender person bound to medical authority, perpetuates the place of vulnerability before the team that will be able to decide whether or not s/he is transgender and (re)affirms the need to "pass the test, pass the exam"" (Teixeira, 2009, p. 4). In other words, the transgender person must undergo an entire evaluation process to confirm what many of them have already known since early childhood, devaluing their desires and anxieties, given the fact that only a medical evaluation confirms their existence as a transgender person.

Concerning the assistance envisioned in the Ordinance, there is a provision for clinical and surgical procedures to be performed exclusively at a specialized care unit. Among the clinical procedures are therapy visits and hormone treatments. The surgical procedures include sexual reassignment surgery on the genitourinary system and surgery on the upper airways in the head and neck.

In November of 2013, Ordinance 2803 was enacted which "redefines and expands the Transgender Process in the Unified Health System (SUS)" (Brasil, 2013, p. 25). Among its considerations is included the revocation of CFM Resolution 1652/2002, the basis of Ordinances 1707 and 456 and the enactment of CFM Resolution 1955 in September of 2010. The CFM Resolution in question removes the experimental nature of recognized surgical procedures which are already routinely performed at the SUS, such as adenomastectomy, hysterectomy or even oophorectomy,

which are the surgical operations related to gonads and secondary sexual traits in transgender men. Concerning modifications of secondary traits, the draftsman emphasizes the bioethical principal of personal autonomy, which makes explicit the person's right to make changes to his/her body (Federal Council of Medicine, 2010b).

However, while recognizing the right of transgender people to health – since surgery is part of the treatment and an important stage in the search for health, within a broader concept – the status of neophaloplasty for transgender men remains as experimental, and this is justified by questions related to its aesthetic and functional results (Federal Council of Medicine, 2010a). Actually, it is shown to be the case that the technique and its final product, as evaluated by the executor, are considered more important than the objective and subjective benefits in the lives of transgender men, especially if we consider the dimension of social rebirth that the ordinance promotes (Schramm; Barboza; Guimarães, 2011).

Ordinance 2803, like the previous ones, indicates in its Article 2, paragraph 1, that the Transgender Process must be based on integrality and humanization (Brasil, 2013).

Integrality is a fundamental principle of the Unified Health System (SUS) (Brasil, 2005), and in the transgender process it would involve seeking to care for all of the requirements and needs of transgender people. This is made explicit when the ordinance highlights the fact that the therapeutic goal is not centered on the surgical transgenitalization procedure and the remaining somatic operations (Brasil, 2013). In the same article, the ordinance also indicates that the "priority" entry point in the Process will occur through the Basic Health Care route, which is a component of the Health Care Network (Rede de Atenção à Saúde – RAS), defined as being "responsible for the coordination of care and for providing follow-up care for the population which is under its purview..." and from where the referral to the Specialized Care Service will originate (Brasil, 2013, p. 25).

In terms of assistance, it also envisions the performing of clinical and surgical procedures exclusively by specialized care, expanding the list of procedures available for these users. Clinical procedures include clinical pre-op and post-op visits and hormone treatments, which are allowed from 18 years of age onward. Surgical procedures, significantly expanded compared to previous ordinances, are: 1. For transgender women – surgery

of the genital organ, thyroplasty and reconstructive plastic surgery of the breasts including bilateral silicone breast prosthesis. 2. For transgender men – bilateral mastectomy, hysterectomy with bilateral adnexectomy and colpectomy and other surgeries such as complementary surgeries to correct previous surgeries or complications and reconstructions of previous surgeries (Brasil, 2013). These procedures are allowed starting at age 21.

However, in what way does the transgender process reflect the realization of basic functionings and the life plan of the individuals who undergo it? How can we undertake a moral evaluation of this ordinance? And what perspective of justice would be the most adequate to be used in the evaluation of the transgender process? The answer to these questions is what we will try to arrive at in the next section.

3. The Perspective of the Functionings

Justice and injustice are terms routinely used to describe an action that is considered good or bad for a person, a group or a community, among others. But to justify the use of the adjectives just or unjust, it is necessary for us to rely on rational arguments, which many times involves referring to a theory of justice, that is, a theory that provides the criteria by which reason influences the verdict of justice and injustice (Sen, 2010b, p.55).

In this analysis, we intend to use the Perspective of the Functionings as a point of reference. The focal point of this perspective is "the equality of the individual's basic functionings", respecting the "[...] diversity and singularity inherent to the diverse forms of life and to the concrete existence of each individual" (Dias, 2014a). What makes a functioning be considered basic is the central place it occupies in the conception of the realization of each individual or each life form. This aspect may "be recognized both as a condition or means for the realization of other functionings, and as something valuable in its own right", or, put in another way, it may be considered central in and of itself or because it helps to achieve other central functionings (Ribeiro; Dias, 2014). The creation and development of public policies must promote basic functionings, must ensure them, and thus, respect them.

The pillars that support this perspective are: the functionings as object of evaluation, an expanded conception of health, the need to listen to people involved as a source for the definition of the basic functionings, and

the search for betterment as a condition of the human being. These pillars will be introduced and associated with the characteristics of the lives of transgender people and the realization of their functionings or set of functionings. We thus aim to justify the use of this perspective in the evaluation of public policies for transgender people.

3.1 The Object Under Evaluation

The object under evaluation, in this perspective, is the functionings themselves, given that some individuals "will never develop some specific capabilities, such as freedom, as understood in its most fundamental form—i.e., autonomy or the power of self-determination." (Dias, 2014a).

This new proposal seeks to expand the spectrum of individuals originally included in the theory proposed by Sen, which has as its object the guarantee of freedom to choose from the set of capabilities that the agent wishes to achieve, or, what he called capacitation. In Sen's perspective, the functionings are defined as the various things that a person may consider important to do or to be. Capability is defined as the various alternative combinations of functionings, and capacitation, the substantive freedom to bring about these combinations (Sen, 2010a).

Consequently, the expansion of freedoms is the foundation of Sen's approach, with freedom understood "both in relation to the processes that lead to freedom of actions and decisions as well as people's real opportunities, given their real and personal circumstances" (Sen, 2010a, p.32).

In the specific case of transgender people we may easily imagine that, as a result of extreme discriminatory processes that condemn them to a sort of social death, they may have become incapable of assuming the management of their own lives and, in this sense, of freely choosing the life they want to live, what they plan to do or to become. The primary need, for these persons, would then indicate the accomplishment of other basic functionings as the only available alternative. In this sense, an adequate public policy would be one that sought to directly provide the realization of such basic functionings, independent of any consideration related to the agent's freedom of choice. According to the perspective that we are defending, freedom of choice is not the focal point of justice, but is in fact one among several functionings that the individual may or may not develop.

The level of centrality of freedom of choice in the face of other functionings will only be gauged through the analysis of each particular case, and, in its absence, the promotion of other basic functionings by the Government becomes even more urgent.

Another aspect which deserves to be considered is that the transgender process policy itself ends up, if not denying, then at least restricting the freedom of the transgender individual, since his/her entry into the process and the key to access bodily modification and other benefits that the policy may come to offer, are both associated with a medical diagnosis of mental illness. In other words, to benefit from the policy, the transgender individual needs to be diagnosed as a person with an identity disorder, which means that, in the eyes of society, his/her autonomy is placed in doubt, at the very least.

Associated with this heteronomy concerning bodily modification is the fact that transgender individuals, by being who they are, are not able to achieve various functionings in many different areas: their family ties are broken; they end up dropping out of school because of the discrimination they are subjected to, both by teachers and other students; they have to seek subemployment to survive or they are excluded from their work environments. In her analysis, Daniela Murta emphasizes that "the majority of patients support themselves through informal jobs, temporary work and prostitution, and those who have a formal job normally hide their condition" (Amaral, 2007, p.73). All this denial of accomplishments for these people makes them vulnerable to physical abuse and psychological aggression, which may place other functionings at risk, such as, for example, their own health (Arms, 2008).

In that sense, a public policy designed for transgender individuals may not be evaluated based on the freedom of functionings that lead to a valuable life, since this principle is denied to them from the moment they recognize themselves as being transgender. For this reason, it becomes essential to have a perspective where the focus is not on freedom, but on functionings which are considered, in each case, basic: functionings which perhaps may even contribute to these individuals achieving autonomy.

By guaranteeing the realization of the individual's basic functionings, the transgender process would then be considered the means of attaining a life with dignity. A proper understanding of the process,

considering all of its complexity, would allow for a better identification of the functionings to be protected and/or developed, including freedom itself.

One may infer that the transgender process seeks to promote functionings, or a set of functionings, related to health, when the patient undergoes the surgery, the changing of the secondary traits and the hormone treatments. But the realization of these functionings will highlight the need for the realization of yet other functionings that may or may not be associated with health, and that cannot be denied by discriminatory processes or by the extremely mistaken over valuation of the surgical procedure as the only thing for the achievement of these people's life plans.

One example of what is routinely experienced by such individuals is the difficulty in changing their legal name, either before or after entering the transgender process. These medical and legal issues are considered critical for the transgender person (Currah; Minter, 2000). Without that change, there is no way to escape the social exclusion, even after being discharged from the transgender process. Contact with the world takes place through one's name, and with a name representing the opposite of the gender expressed by the transgender person, s/he remains vulnerable to situations of embarassment and prejudice which may perpetuate the difficulties of integrating in school, work and other environments. Such issues become relevant when we consider that in the formulation of a public policy, the various functionings that add to or restrict other functionings must be carefully considered.

3.2 Conception of Health

Health in the perspective adopted here is:

> the normative capacity of human beings, operating through a set of basic functionings – as a dynamic and interactive system – which to be developed and carried out require certain physical conditions to exist. (Ribeiro; Dias, 2014)

This expanded view of health reiterates the sum of factors that determine and condition health, such as eating habits, living conditions, basic sanitation, environment, work, income, education, transportation, leisure and access to essential goods and services, demonstrating the need for public policies of an economic, political and social nature that meet the needs and demands of society (Brasil, 1990).

In the case of transgender people, health also involves care related to the demands for modification of the body, which would be hormone therapy, the use of silicone implants, the modification of secondary traits and of genital reassignment surgery itself. The first two allow for possible self-medication or self-administration, which often leads to serious consequences for their health, since they are done without any kind of supervision or guidance and, usually, performed by people with no training for such an activity, especially during adolescence, when secondary traits related to the person's anatomical sex begin to appear. Add to all this the self-medication and the lack of financial resources to buy the hormones leading to the use of cheaper hormones – which can cause long-term complications – or waiting in long lines in the legal system in search of resources to continue the treatments.

In the case of silicone implants in the breasts of transgender women, the cost of such a procedure is three times as great for them as it would be otherwise when performed on women. This creates a demand for clandestine clinics or even "bombadeiras" (individuals who perform illicit applications of silicone), leading to significant risks to their health due to the lack of adequate materials, and pain, due to the lack of anesthesia (Vilela; Santos; Veloso, 2006, p.77), besides immediate and/or medium and long term damage to their health.

In addition to the ability to stay healthy, other functionings need to be guaranteed so that transgender people may accomplish their life plans. At this point we would like to highlight the following aspects: 1. Social – education, employment, housing; 2. Legal – judicial condition as man and woman, marriage, protection against violence, identification and registration documents; and 3. Medical – ongoing medical care, among other things (Currah; Minter, 2000). In this sense, the expanded conception of health does not limit the evaluation to a mere absence of disease or illness, but to a diverse range of functionings that define health.

Considering the expanded conception of health in this perspective, these functionings would be contemplated and, therefore, included as points of evaluation of the transgender process, turning the focus away from the biological issue and towards the accomplishment of the individuals in many different areas.

3.3 The Source: Listening

The primary source of knowledge in this perspective is empirical research. The recognition of what is basic may vary in each case, since the "access to what is basic is always empirical and depends on fairly specific circumstances experienced by various individuals" (Dias, 2014a).

Thus, there would not exist a list of basic or central functionings, as proposed by Nussbaum (2011) who, in his turn, tried to unite Sen's perspective with the Aristotlean belief in universal attributes that would make up our conception of a life of dignity or an accomplished life. To this end Nussbaum established a list of 10 central capabilities, which are: 1. Life, 2. Physical health, 3. Bodily integrity, 4. Imagination and thought, 5. Emotions, 6. Practical reason, 7. Affiliation, 8. Other species, 9. Leisure and 10. Political and private control. According to Nussbaum, these central capabilities deserve to be protected and ensured in various ways because they are essential in the various phases of a person's life cycle. The aspects included in this list, aside from small variations of interpretation, would then raise a claim to universality, in the context of so-called human lives. (Dias, 2014a).

In contrast, in the perspective advocated here for the assessment of public policies for transgender people, the functionings which are defined as basic must be defined by the individuals themselves, who are the object of our moral consideration, since they are responsible for recognizing which functionings, or set of functionings, contribute to the accomplishment of their life plans (Dias, 2014a), particularly when we consider that freedom is denied to them in various instances. But so that we may be mindful of the specific needs in each case, what becomes necessary is

> listening accurately to different voices and paying precise attention to the particular circumstances experienced by the different individuals, so that we may include various forms of functionings which, in the point of view of what constitutes the individual's own identity, must be recognized as fundamental. (Ribeiro; Dias, 2014)

Through this listening, concerned with the recognition of the basic functionings that contribute to the flourishing of transgender people's lives, one would achieve, as a final result, what is truly valuable for this group of people and for the accomplishment of their life plans. By listening to different voices, we become more capable of formulating public policies that are more suitable for the realization of everyone involved.

3.4 Human Betterment as a Human Condition

According to the perspective we advocate to perform this analysis of the transgender process, the person's identity are seen as necessarily including entities external to our bodies' boundaries or artifacts". (Dias, 2014b). In this sense, we adopt a non-rigid conception of human nature, where modifications and changes are allowed since people, here, are understood as flexible, dynamic functional systems, that transform and mold themselves, in an attempt to better harmonize with their surroundings and reach full realization. (Dias, 2014b).

This pillar of the perspective of the functionings is fundamentally important for those individuals targeted by the public policy we are discussing, because of the meaning that the sexual reassignment surgery and the modifications of secondary traits has for them, such as for example the implantation of silicone in the breasts and mastectomies. As Bento describes:

> The responses and the ways of relating to the genitals and sexuality are diverse. Nevertheless, when asked why have the surgery, there was a constant reply: "I want to be free". None of those interviewed replied: "I want the surgery so that I can be penetrated, or penetrate, to have an orgasm". Among transgender males, the mastectomy is the surgery that will give them what transgender people will get with the construction of the vagina, that is, freedom. It is the desire to be socially recognized as members of the identified gender that will lead them to undergo the adjustments to their bodies. (Bento, 2009, p.106)

This freedom promotes the individual's self-recognition and perception as citizen-being – and not an abnormal person, an "outside of the norm" – creating social inclusion and the longed for citizenship, in the broader sense of the word.

The fixation of human nature, in terms of sexual identity, has its foundation in the binary sexual system, the "logical operator" that defines only two related alternatives for people:

> sex (to be male or female in the biological sense, based on one's own genital endowment), gender (to act like a man or a woman, that is, to follow lines of conduct socially approved for one or the other) and sexual orientation (to have a heterosexual desire toward people of the opposite sex, or homosexual, toward people of one's own sex). (Bernini, 2011, p. 20)

The affirmation of the fluidity of this human nature, through the "recognition of the uncertain and mutable nature of identities" (Teixeira, 2012, p. 507) breaks with this system and identifies the various forms of bodily intervention as a means of human betterment. This understanding eliminates the need to pathologize the transgender condition, where medicine lends its scientific discourse to the production of truth, aiming towards the regulation and control over bodies which are outside of the norms of society (Foucault, 2010).

Where the betterment is understood as part of human nature, part of our longing for a better life, transgender people begin to have their rights recognized and begin to have access to the modification of their bodies. The pathologizing of transsexualism loses its meaning and the bodily modifications, the use of hormone therapy and the modification of secondary traits become a necessity, and not a means of treatment of the "disorder" of transgender individuals. Based on this understanding, to look at transsexualism, would be to look at transgender people seeking their uniqueness – individuals with a history, choices and paths that make them unique.

We must also emphasize the fact that there are transgender people who want to modify their bodies but who do not want to undergo the sexual reassignment surgery, which many times leads to their being left out of the transgender process and, therefore, being denied the benefits of the public policy. Let us remember that these public policies should evince and meet their common needs, without losing or devaluing the uniqueness of these individuals. Their function would be to ensure the individuals' right to the realization of the functionings, without the need to rely on strategies that regulate people based on whether they fit into a medical diagnosis and a standard of treatment that may not be altered.

Another association between the transgender process and human betterment concerns its directive of integrality. An expanded definition of integrality, proposed by Cecílio, begins with the definition of the need for health supported by a taxonomy, organized in four sets, as follows: good living conditions, access to and consumption of technology to improve and prolong life, a(e)ffective links between user and team/professional, autonomy in the way of life (Cecílio, 2009).

In this taxonomy, in two sets – access to and consumption of technology to improve and prolong life and to guarantee autonomy in the way of life – we can identify the issue of human betterment, because the modifications that are the goal, whichever they may be, are considered to be those which best promote the existence or realization of the individual. Therefore, the ordinance, based on integrality, would aim for the increase and betterment of the functionings of transgender individuals. One would seek to recognize which functionings are necessary for the flourishing of each person, based on the expression of his/her demands and, from that assessment, we would seek to develop strategies that could lead to the promotion of different functionings.

The transgender process then comes to play an important role in the search for human betterment, since it facilitates the necessary and desired physical modifications of transgender people, in a way making possible the realization of their life plans.

4. Concluding Remarks

In this chapter, our goal was to analyze the appropriateness of the use of the perspective of the functionings in the assessment of public policies concerning transgender people. In other words, we have tried to interpret the transgender process using the pillars of this perspective.

We emphasize the importance of focusing our consideration on the functionings themselves and not on the opportunities, since the latter only exist based on the possibility of choice or freedom of choice, which in the case of transgender people is non-existent most of the time.

We have sought to show that the expanded view of health, proposed by the perspective of the functionings, results in an expansion of the field of assessment itself, since it provides the evaluator with an overview of various areas interconnected with health, beyond the limited biological view that simply interprets health as an absence of disease or illness.

The uniqueness of each person is, in turn, respected as long as the people themselves who are involved in the transgender process are given the role of (i) defining and judging which basic functionings must be guaranteed in order for their life plans to be realized, and also of (ii) evaluating the effectiveness of public policies in promoting these same functionings.

Thus by allowing these individuals to be genuinely heard, public policies will be more efficient and the assessment of such policies will be more effective so that, more and more, everyone's right to a good life may be guaranteed and expanded.

Finally, we emphasize that an understanding of the search for human betterment as a component of our own nature leads to a recognition of the surgeries and modifications of the body as being natural, making it not only unnecessary but also a mistake to pathologize the individual in order for these modifications to take place. Such modifications are part of a process through which certain individuals seek their own self-realization.

Chapter VIII

The Perspective of the Functionings for Higher Education in Healthcare

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This chapter seeks to use the functionings approach as a conception of justice for higher education in Healthcare. We begin with a brief overview of the demands for a perspective of justice applied to Higher Education in Healthcare (ESS – Educação Superior em Saúde) and then develop the use of the functionings approach in that context.

1. A Perspective of Justice for Higher Education in Healthcare:

Higher education in healthcare holds many expectations. One hopes for a more humanistic, ethical and dialogical education that helps create healthcare professionals who experience otherness, respect, social and ethical responsibility, individual and collective responsibility in every moment of their work, as something that has to constitute their identity in their healthcare work. These are expectations that emerge from a demand for assistance capable of listening, respecting and including people, based on a perspective open to the diversity that the other brings.

The literature has already made innumerable contributions in the sense of justifying such expectations, and has proposed interesting changes to the curriculum, pedagogy and content. Even though there is still a long way to go in order to make them a reality, no one questions their relevance any longer, which legitimizes efforts made to reach such goals.

Our proposal to discuss higher education in healthcare leads to another question, which we hope will become as relevant to the academic community as the first one: Could it be that *the students* experience a humanistic, ethical, respectful, dialogical environment, one that recognizes diversity as positive in their interpersonal experiences – among their classmates, with professors, with patients or preceptors – throughout their

academic training? This question is still rarely asked when discussing higher education in healthcare, however some recent examples found in the literature (Villaça and Palácios, 2010; Palácios and Rego, 2006; Paredes *et al*, Cavaca *et al,* 2010; Marques *et al*, 2012, Cooper and Curzio, 2012; Hasan, 2012; Rios and Schraiber, 2012) lead us to a negative answer. According to these studies, the problems that emerge from interpersonal relationships in institutions of higher education in healthcare are fairly frequent and originate from different kinds of relationships: between professors and students, between students, between professors, students and patients – in different situations and contexts – in the classroom, during hazing, in tutorial sessions, in university hospitals and clinics and in patient care. And it occurs in many forms – intimidation, disqualification, humiliation, authoritarianism, racial and gender discrimination, among others.

This second question is not unrelated to the first – the profile of a healthcare professional that is desired for a more socially responsible attention to health. So much so that what we identify is an antagonism that should not occur: how does the educational process of a higher degree program in healthcare intend to train ethical professionals with a better understanding of society and human relationships so that they may produce more just work in healthcare if, day to day, as students, among classmates and with professors and/or patients of the university clinic, this moral value, this experiencing of otherness, and the perception of cultural and social diversity are rarely problematized, are ignored or even unfairly produced?

What is strange to us is the invisibility of these problematics in the meeting agendas of the institutions of higher education in healthcare (Villaça and Palácios, 2010). There is still no expressive university policy or pedagogical or curricular proposal that covers issues that occur on a daily basis in the university context; and there are still few records about them in academic journals and events, which lead us to conclude that this is not yet considered a real problem.

Violence in healthcare education is, in certain situations, trivialized and even subliminally encouraged (Villaça and Palácios, 2010) or pedagogically legitimized as being necessary for medical training (Rios and Schraiber, 2012; Rego, 2003). And, because these are situations that cause suffering in those who experience them as mental stress, lack of motivation, feelings of rage, inferiority and embarrassment (Paredes *et al*, 2010; Cavaca *et al,*2010; Marques *et al*, 2012; Rios and Schraiber, 2012; Rego, 2003), when institutional initiatives do exist, they are generally limited to a psychosocial counseling service to which the victims are referred. As Dejours (1999) states in his book about the trivialization of social injustice, suffering only causes indignation and mobilization for change when this suffering is perceived as a result of an injustice. So, therefore, we are actually in the field of ethics, not psychology.

When we acknowledge that the suffering which takes place in the environment of higher education in healthcare is caused by relationships, situations and unfair contexts, and, if we propose to analyze this educational environment in order to create pathways for change, we need to clarify which conception of justice we will be using to do so. It is a conception of

justice that serves as a criterion to identify the inequalities and disadvantages that cause these injustices and that establishes a conceptual structure to work with theoretic-methodological proposals for a more just ESS (Higher Education in Healthcare).

As Amartya Sen (2011) affirms, we need to go beyond our sense of justice in order to use arguments which are free of our own interest in personal benefits and free of preconceived judgments or local prejudices, so that a diagnosis of injustice, or the identification of what could reduce or eliminate it, may be objective. This involves a critical assessment about the foundations upon which judgments about justice are based (whether they may be freedoms, empowerment, functionings, resources, happiness, wellbeing, etc.). Therefore, to state the conception of justice being used means to choose and justify the choice of the foundation upon which we base our reasoning to consider something just or unjust in ESS.

We perceive something as unjust in ESS when there are inequalities in the teaching environment that cause relationships and contexts that exclude, that oppress or that ignore the other. In the same way, we can affirm that equality in the teaching environment requires relationships that are inclusive, in the sense of treating equally/ respecting the other. But how do we interpret this demand for equal respect?

Respecting means acting to expand, maintain (keep safe) and not damage the functionings of each individual. Respect for the basic functionings of an individual is the focus of this conception of justice which we will be calling the functionings approach (Dias, 2014), and which we will be advocating as the most promising to be used in ESS, as we will seek to develop it in this chapter. To do this, we will also use the contributions of authors who discuss higher education with the capabilities approach, highlighted by Melanie Walker (2006). Such authors, although they say they are theoretically linked to the capabilities approach, in fact, they emphasize the functionings themselves and not the freedom to choose them. The freedom aspect does not seem to be, in their defenses, as structuring as it is introduced in the capabilities approach, as proposed by Sen and Nussbaum. In any case, in spite of the theoretical differences that mark both approaches, especially concerning the foccus of justice, in the specific case of higher education, the divergences become much less relevant than in other contexts, for here our target audience is characterized precisely by

individuals already capable of deliberating and making choices in a "free" and "rational" way.

2. The Functionings Approach and Higher Education in Healthcare

The functionings approach has the possibility of valuing as important in ESS aspects that not only concern training for work in healthcare, but also are linked to human flourishing, consonant with efforts that lead to a more just society.

In referring here to a more just society, we allude to a notion of *relational or social equality*, highlighted by Wolff and De-Shalit (2007), which offers a relationship of convergence with the functionings approach. These authors propose a social or relational view of society, and they advocate not looking merely at how the government treats people, but also at how people treat each other. They emphasize a relational equality so as to create less authoritarian relationships between people, avoiding situations of oppression, exploitation, domination and other malevolent hierarchies. Relational equality or inequality is a factor that improves or worsens individual lives, affecting their sense of belonging to society or their connection to others.

This being said, relational equality for higher education in healthcare is a starting point for our discussion, which will focus on two arguments that complement each other:

1 Higher education in healthcare has the responsibility to *expand*, *keep* safe and *not damage* the development of the students' functionings.

2 Higher education in healthcare is part of the basic structure of society, both with respect to education as well as healthcare. The development of the functionings in ESS must always be linked to the social demands for healthcare.

When affirming this responsibility of higher education in healthcare to *expand*, *maintain* (keep safe) and *not damage* the development of the students' functionings, we have a criterion of justice that provides a theoretical scope that allows for better recognizing disadvantages in interpersonal relationships and the contexts that do not allow students to

develop their potentialities or expand their functionings as unique individuals.

This brings a different demand for the professors and the educational institution, which is the practice of listening acutely and developing an appropriate sensitivity (Dias, 2014) so that it may be possible to recognize the diversity of students that make up each educational process. One seeks to break with the erroneous notion that the resources offered by ESS must be the same, since they do not work in the same way for all students.

This exercise of recognizing diversity and disadvantages or unjust contexts needs to form a part of the pedagogical program for education in healthcare, so that students may expand their functionings as a result of this educational process.

As we discuss functionings and ESS, our approach converges with the one proposed by Melanie Walker (2006), who talks about capacitation and pedagogy in higher education. For Walker, the role of higher education extends beyond the role of the professor, for it involves not only the one who teaches, but especially the one who is the focus of this teaching – the student – without separating what is taught – the curriculum – from the context in which this teaching takes place.

The specificity of ESS also involves healthcare in university hospitals and clinics, which makes this issue even more relevant concerning the ethical aspects that are added.

In this relational space where power circulates and social and institutional structures penetrate, there is always the possibility for higher education to reproduce cultural and social inequalities and oppressive relationships of power. Thus, there is a need to join forces so that this may be transformed, which will happen if the pedagogy of higher education promotes ethical values as something as central as the development of knowledge and technical abilities (Walker, 2006, p.12).

Experiences in higher education help mold how we perceive ourselves and what we believe we might be able to do. Answers to practical questions about what kind of knowledge to teach, using which pedagogy, and for whom, express judgments about what aspects of existing social

ways of life should be reproduced or transformed in order to educate the students (Walker, 2006).

Conversely, issues about how society can become more egalitarian also take shape as educational issues concerning knowledge, attitudes and abilities required for participation in advanced forms of social life. These are issues that become a part of the student's learning, for we do not separate a pedagogy of knowing from a pedagogy of being and doing, in a vision of learning that unites an ontological project (being) with an epistemological project (cognizance and knowledge) (Walker, 2006).

It is in this pathway, in which knowing, acting and being are integrated, that we understand that all pedagogical, curricular and politico-institutional choices have the potential to help expand the functionings of the students in ESS. The teaching environment forms a part of these choices, through the relationships between students, between students and professors, and between both and patients/users.

For example, functionings related to confidence, self-respect, ethical relationships and interaction with diversity can be considered basic for students of healthcare education. And, if this is the case, it is necessary to seek pedagogical and politico-institutional pathways to expand them.

On the other hand, if the teaching environment not only is not propitious for this expansion, but even functions as the cause of damage to these functionings, as in, for example, an abusive professor-student relationship or a university clinic environment which disrespects the patient and foments prejudiced and oppressive practices between students, then, we cannot call this education and much less qualify it as "higher".

The second argument places higher education in healthcare as part of a basic structure in society, both in its function within education and within healthcare. I use the theoretical elements expressed by John Rawls in "*Justice As Fairness: A Restatement*" (Rawls, 2003), where he describes the idea of the basic structure of society as the way by which (i) the most important political and social institutions interact forming a system of social cooperation and (ii) they distribute rights and basic duties and determine the division of advantages deriving from social cooperation in the course of time.

Education and healthcare are essential parts of this network of the basic structure of society. An educational process that results in the training of healthcare professionals plays a double role in reinforcing the possibility of having, in healthcare and in education, the objects of a distributive conception of justice.

As Rawls (2003) puts it, the effects of the basic structure of society on goals, aspirations and the character of citizens, as well as on their opportunities and capability to maximize them, are profound and are present from the beginning of their life. Thus, the university has the responsibility to address the unjust conditions that might be established in the educational process. For a part of the basic structure, in this case education, that has as one of its institutions the training of individuals who will be potential producers and distributers of justice in other institutions of the basic structure of society, in this specific case in healthcare, cannot be compatible with unjust conditions throughout this training. On the contrary, it is the university's duty to seek to promote an expansion of discussions related to this issue so that respectful relationships, social, racial, gender and cultural diversity as well as equitable policies may constitute a process that is experienced in a positive and transformative way between students, between students and professors, and also with patients in university clinics.

3. Positive Diversity in the Pedagogy of Higher Education in Healthcare

A first step towards reflexion in this direction is the interaction with diversity in the academic context, be it racial, cultural, socioeconomic, religious, of gender identity, of accessibility, and so on. In order for students to make progress in dealing positively with this diversity, it needs to be understood as part of the students' educational process, as something inherent to training in healthcare.

In order for this to happen, it is necessary to practice a pedagogy that is inclusive and more focused on the students – and on the relationships that are established there. This requires professors to develop acute listening and sensitivity to perceive how they can help in the development of their students' functionings, attending to demands that are in many cases very individual, originating from the most diverse life stories (Dias, 2014).

Throughout the text, we will bring up some examples taken from my own experience in the process of teaching and learning in healthcare – as a student and as a teacher in undergraduate studies – or extracted from empirical studies already undertaken.

Example 1

A foreign student, from Cape Verde, one of the few black students in the dentistry program at a public university in Brazil. Throughout the program, the student remained uninvolved both in the socialization process as well as the teaching-learning process. During classes, mostly lectures, he kept silent, sitting in a corner of the room. In spite of the fact that Portuguese is spoken in his country, he had difficulties communicating as a result of differences in how Portuguese is used in the two countries. He avoided making presentations, and when it was unavoidable, he felt embarrassed for having to display his difficulties in front of the class and the professor. His classmates virtually ignored his presence and did not realize that their practice was excluding as far as the aspect of socialization of the class was concerned. As for the professors, they also did not identify this problem or, if they did perceive it, they thought it was not an issue to be addressed in the healthcare education process, or thought there was nothing to be done about it.

In the same class, there was a Peruvian student who, in spite of not having problems with socialization, had a great deal of difficulties with the language. She worked much harder than the rest of the students in order to pass the subjects, but still failed some of them and lost the semester. The professors did not see any need to provide this student with special attention, since for them it was merely a question of her seeking a solution to her difficulties.

Another foreign student, from Guatemala, who was white and came from a high social class, had the opportunity to prepare himself well for the experience of studying abroad. He was outgoing and articulate, and did not have any significant problem with the program. His classmates enjoyed hearing him speak about his culture, about social aspects and about what dentistry was like in his country. He stood out when making presentations precisely because he used the fact that he was from another country to draw

broader comparisons. Even though there was no collaboration from the professors in this interaction, the educational experience of both the foreign student and his classmates was enriched by this exchange.

The three stories share things in common: all of the students were in the same program, at the same time, and in a foreign country. Nevertheless, they had completely different experiences.

The first two had negative experiences. The student from Cape Verde had several disadvantages, which left him more vulnerable to exclusion and embarrassment throughout the program. The second one, the Peruvian student, was willing to study much harder than other students, but even then, was not able to match their performance.

What the perspective of the functionings proposes is to consider specific differences so that the functionings may be expanded based on what each particular experience requires. Thus, instead of allowing such potential barriers to become restrictions of the full development of the functionings of the students under consideration, a pedagogically just practice must include (consider/respect) these foreigners, striving so they may be able to develop their functionings in the best possible way. At the same time, the presence of the foreign students must reinforce, for their classmates, a demand also directed at the professors and institutions, which is to learn to deal with differences. This is a task that, in turn, will demand listening acutely, performing a sort of imaginative theatre, an exercise of putting oneself in the others' shoes, at times so different, and experiencing *their* experiences (Dias, 2014), thus expanding the functionings for a better healthcare education.

When Nussbaum (2010) speaks about the functionings for higher education, she emphasizes the need to develop the capacity in students of seeing the world from the point of view of other people. This is what the experience of the third student, from Guatemala, demonstrates, whose ease of interaction allowed him to bring his view as a "foreigner" to his classmates, who were able to develop this functioning described by Nussbaum (2010). After all, this has become a demand for the future healthcare professional: to know how to truly perceive the others, knowing how to recognize their real needs.

Let us look at another example:

In an account from a nursing professor at a public university, selected for a short film (A desUni-versidade, 2013), reference is made to the difficulty professors have, as well as the institutional policy itself, in dealing with students who have physical disabilities, since they make judgments about the students, motivated by preconceived ideas about which "physical" competencies are necessary for the students to complete their education and become healthcare professionals. In the account, the interviewee's own experience as a student exemplifies this. Because of the malformation of her hand, she was subjected to a trial of professors to evaluate whether or not she could continue in the nursing program. With the support of a single professor who afterwards became her reference as an educator throughout the program, she was not only able to graduate, but became an obstetric nurse who participated in many successful births throughout her career. Even today, in her experience as a professor at a public university, she continues to witness the inability of the professors to deal with difference. She describes the case of a student who experienced a similar situation when her physical condition became the determining factor in how the professors could judge her capacity to complete her education. The interviewee also mentions another case of a student who suffered embarrassment throughout her undergraduate years caused by other students and professors, because she had a facial deformity.

Many times the students' functionings will be so singular and their potentialities so diverse, or what they have to contribute to the educational process and as future professionals is so new, that we, as professors, can only act in a way that will expand their functionings, instead of trying to impose standardized competencies and abilities which are required by the profession, like a package ready to be delivered to those who are supposedly qualified to receive it.

Additionally, we are concerned with the extent to which professors' limitations in dealing with difference is reproduced by the students who, even inside a university, as students in a healthcare program, not only do not have the opportunity to learn with differences (expanding their functionings to the ESS), but also can learn to deal with them negatively, in a learning environment permeated with exclusion and prejudice (damaging their functionings as students in a healthcare program).

Under this logic of promoting diversity as a process to be experienced positively, issues such as homophobia, racism and sexism need to be part of the curriculum in healthcare education, in the pedagogical processes, where it is clearly legitimate to hold debates, show videos and discuss texts. What we propose is that these topics need to be dealt with in conjunction with the students, in an approach in which they are not perceived as external topics, that is, far from the students' reality. As students of healthcare, we do not only find these problems in the academic community itself, but also in the educational environments where work in healthcare occurs: university clinics and hospitals. We have doubts as to whether professors know how to respect the rights of a transgender woman to be called by her social name and have her privacy respected according to her choice, and we have even greater doubts as to whether this topic is included and debated in healthcare education.

Higher education is a privileged space for reflection and transformations towards social equality, so that these social injustices do not become the objects of diversity turned negative by higher education itself, that is, a space in which this may exist and grow to the point where it might influence the education of the student. We believe that the very trivialization of these topics by healthcare programs acts to the detriment of the value of diversity in education. We consider this a form of damage to the students' functionings.

Debates about this are generally associated with programs in the humanities or are limited to student movements and do not reach healthcare education. However, it is necessary to emphasize that in higher education we also learn ways of being and acting, in addition to knowledge. Such a construction of identities that unites being/acting and cognizing/knowing will always be determinant in the choices valued by the students and later by the healthcare professionals.

Leaving education and entering healthcare work, one reproduces what was not transformed at the right time. This is what some studies show us about discrimination, prejudice and difficulties dealing with social specificities in healthcare services. In a study (Leal *et al*, 2005) of almost 10 thousand women who had just given birth in public and private maternity wards, independent of educational background and economic class, black women were disadvantaged both during pregnancy care, with fewer

medical visits, a lack of tests and a lack of important information, as well as during delivery, with less anesthesia in normal deliveries and less permission to have someone accompany them during post-delivery. Other texts (Oliveira *et al*, 2012; Cerqueira-Santos *et al*, 2010; Kalckmann *et al*, 2007) addressed similar issues concerning racial prejudice in medical care and found inequalities due to gender, age, class and sexual expression and discriminatory treatment of HIV carriers, especially if the HIV carrier possesses identifiable racial traits or gender identity characteristics, which leaves him/her even more vulnerable to being stigmatized.

4. The Professor-Student Relationship in Healthcare Education

In addition to curricular and pedagogical aspects, a scenario of respect, equality and recognition in the teaching environment also forms part of the learning process, and the most important matrix of interaction for the realization of this scenario takes place between professors and students (Nussbaum, 2006).

Rego (2003) calls attention to the problems that emerge from the professor-student relationship in medical schools. It is not rare for the imbalance of power that characterizes this relationship to turn into abuse, a situation in which students feel powerless. The excess of authoritarianism and verbal violence become a common practice and at times are even considered part of the education, "justified" by the argument that in this way they would prepare students for professional life, since the emotional toll of working with life and death is great. Rios and Schraiber (2012) identify a pedagogical relationship of omnipotence of the professor, characterized by a climate of competition between professor and students, with intimidation and agressivity from the professor during questioning by the student and persecution of the student's ignorance, so that the final word is guaranteed to the professor.

This "pedagogy of fear" interferes directly with the students' functionings related to the confidence and willingness to learn. As Nussbaum states (2001), fear ends up being a barrier to our apprenticeship and the confidence in our ability to learn. When we feel intimidated, beset with hostility or humiliated, we do not learn well, and additionally, these are feelings reinforced as mechanisms of social control, guaranteeing certain

relationships of power and intellectual worth in the pedagogies of higher education.

All relationships that oppress, humiliate, embarrass, and disqualify students and patients damage functionings that can be considered basic for ESS. To exemplify this, we can use as a reference the list of functionings for higher education created by Walker (2006) to highlight some that can be diminished in this relationship: emotional integrity, respect and recognition, willingness to learn and collaborative social relationships.

On the other hand, in the professor-student relationship in which the professor assumes as part of the role of the educational process to ensure and expand these functionings, the ESS will be experiencing an educational process consistent with the search for relational equality in the teaching environment. This relational equality helps in the formation of students who are confident and have a greater capacity to convert the resources they have into functioningns valued for the construction of their identities throughout the educational process.

In contrast with a pedagogical relationship based on the professor's omnipotence, Rios and Schraiber (2012) identified another category of responses based on the construction of a bond between professor and student. The statement of one student expresses the fact that this relationship meant a recognition of her identity and that she saw herself as an important part of the process, which had not happened before, and this transformed the meaning of her education. This is an example of what we can call higher education in healthcare based on an expansion of the students' functionings.

In this sense, aspects considered central to the pedagogy are participation and integration, but not shame or exclusion. Participation and integration involve processes of the educational development of individuals in learning communities in which gaining knowledge and constructing positive identities in students go together (Walker, 2006).

The academic community has made progress in efforts to transform this pedagogical practice and improve the teaching environment, for example with active learning methodologies, especially with respect to a teaching environment that may be more favorable to the ethical and moral formation of students (Rego and Schillinger, 2011). The most common measures are the diversification of teaching-learning scenarios, the

inclusion of bioethics in the curriculum, classes with smaller groups, and more recently, the introduction of techniques related to moral conflict resolution in concrete situations, with the goal of promoting learning related to the construction of a moral cognitive competence.

In these efforts we recognize advances that are necessary for healthcare education, and can facilitate and be important pedagogical instruments used to help in the transformation of relationships between students and professors. We must remember, nevertheless, that these techniques do not guarantee an automatic relationship of respect and positive experience with diversity for the expansion of the functionings.

When we affirm that ESS has the responsibility to expand students' functionings, we are not merely referring to their development, which depends on a learning process resulting from a pedagogical technique with defined goals and delineated methods. We affirm that the educational process must ensure respect for the functional integrity of the students in all practices proposed as inherent to ESS, whether or not they may be active methodologies. It is necessary to enhance pedagogical relationships in order to expand functionings such as, for example, the establishment of bonds of trust, recognition, the willingness to learn, the establishment of symmetrical social relationships, among others, which may be identified as important for the construction of the students' identities.

Since healthcare is an important part of the basic structure of society, critical thinking and social responsibility also become part of the list of functionings that need to be promoted among students so that healthcare education may be consistent with a distributive notion of justice which is more inclusive and equitable. In this sense, the pedagogical choice must be aligned with a broader goal that merges with the very social mission of healthcare education.

5. Students' and Professors' Relationships with SUS Users

A desirable practice among healthcare schools has been to integrate teaching and service through courses that develop fieldwork in basic care or other social and institutional contexts. This way, there is an inrease in the number of follow-up activities of family healthcare teams going on house calls, or in meetings with anti-smoking, hypertension and diabetes groups, among others, or even, for example, on a visit to an institution that provides

support to drug users. This diversity of learning contexts creates other demands for the professor-student-users relationship, whose elements also interact with the professionals of these care units, with the users' homes, with the social apparatus' of the community, with support groups and the work at the care units. We will not address this issue with the necessary depth, since there are many discussions that need to happen, but we want to call attention initially to the fact that the professors who work with students in these contexts must be aware that out of such relationships, at all times, situations emerge that involve ethical aspects, relationships in which it is necessary to constantly listen, understand the demands that the other brings (students, users, professionals), and reassess their attitudes.

Let us look at one example. In a meeting of professors who do fieldwork, one professor reported that she had taken a group of first semester medical students to observe street kids at a public square. The students, after the activity, expressed to the professor a great deal of embarrassment related to such a situation. The professor thought it was funny and attributed the students' embarrassment to their possible lack of preparation to deal with the situation, since they are trained to always intervene and that, because they do not know how to simply observe, they were embarrassed. In this specific case, we observe that instead of listening to her students in order to reassess her own practices, the professor interpreted the entire situation based on her previously established convictions, thereby enclosing herself in her own universe of reasons.

Another example demonstrates a different attitude. The students were taken on a house call. The family received them very well, but the professor noticed that the students were embarrassed during the visit. The next time they met, the professor began a discussion with the students about the situation in which they revealed that they felt embarrassed in that house because their group was large (approximately six students). During the discussion, the professor was open to the students' critique and designed, together with the students, a new house call practice, valuing their sensitivity as being essential to work in healthcare and recognizing her own insensitivity during the visit. From that point on, the students began to feel that they had greater power to make decisions and to see themselves as being more integrally part of the process, which contributed to an effective transformation of the fieldwork with the group.

Choices about in which practices to include the students, how to carry them out, and what goal we want to achieve by doing so will determine how much the students and users are being respected. We must ask ourselves, for example, about all the implications of taking the students on a house call to visit an extremely poor family. What are the implications for the family? What are the implications for the students? How much are professors prepared to address questions of humanity with students in the depth required by the healthcare practice? To what extent can we count on healthcare teams to address such questions?

We have no doubt that fieldwork in basic care, accompanied by professors, is truly valid, however we want to call attention to the erroneous notion that the students' functionings will be automatically expanded based on these experiences, as if it were a given. A pedagogy based on the functionings approach demands that we listen acutely and have sensitivity in order to assess individuals in each specific situation, and the uniqueness of each one in their own contexts (Dias, 2014).

Concerning issues that arise in traditional university care, Rego (2003) describes situations of disrespect for patients related to different aspects, which he calls "little big evils in professional practice" (p. 153). He provides statements of students who witnessed mistreatment of drunk patients and associates this practice with social prejudice.

The status of the university professor and "doctor" in society places him/her in a social condition of power that, if used in a malevolent way, can increase these inequalities even more. It is not unusual to observe the treatment of poor patients as if they were ignorant and to be blamed for their illness, patients who are in a university hospital being used for the teaching of medicine, which Rego (2003) described as "objectification of the human being". A homeless drunk black patient accumulates sufficient disadvantages to be vulnerable in the environment of healthcare education. He can be treated with hostility in clinical care by the professors themselves and in front of the students who either are repulsed and embarrassed by the professor's behavior, or perceive this behavior as something to be imitated, as part of this social status of power. Situations like this, when they occur, are unjust in and for the society and, therefore, should not occur in the context of university teaching nor should be permitted by the educational institution. As Walker (2006) puts it, education needs to be a force that

promotes opportunities and social justice instead of serving to aggravate the accumulation of priveleges.

Situations where we can identify incidents of unjust treatment are extremely harmful both for patients, who accumulate even more disadvantages by being exposed to mistreatment, and for students, who are led to experience practices that restrict, rather than expand, their moral perception of the other. In this way, patients and students have their possibilities of fulfillment diminished. The personal and professional identity that is being constructed in this educational process is permeated by prejudice, alienation and by the suppression of otherness.

It is important to emphasize that in the university we do not learn only anatomy, physiology and pathology, but we also learn (or should learn) ways of being (Walker, 2006). We expand our perception of the world and learn to be just and generous.

6. Ways to Identify Functionings in Higher Education in Healthcare

The functionings approach provides the inclusion of the students' voices in the pedagogical process as a methodological structure for the ESS. They act as witnesses or expressive data for the recognition of the functionings that we must value.

The first step that we have emphasized throughout this text is to include acutely listening in the pedagogical process; this imaginative exercise of putting oneself in someone's place, whether it is a student or a patient/user. (Dias, 2014)

Another step that complements the first one is to use a method suggested by Walker (2006), which is to create a list of functionings, through a method of expanded participation. These are lists created through interviews, focus groups and students' diaries, in which representatives of those involved in the educational process are heard and invited to participate in the discussion (such as students, professors and coordinators). The creation and use of these lists in healthcare programs is a proposal that needs to be empirically tested and adjusted.

The list of functionings must be multidimensional in order to serve merely as a reference to expand the perception of the professors about the

possible functionings to be valued in the educational process under discussion.

It is in the day to day micro-instances of interaction in higher education in healthcare, between the teaching and learning process and the environment where it takes place, that the students' identities are formed and their functionings expanded or reduced. As we have seen, higher education in healthcare is part of the basic structure of society, both in the context of healthcare and in the context of education. In this sense, the goal of allowing and promoting the expansion of the healthcare students' functionings must be understood as a constitutive part of a general proposal conceived for the education of citizens in a just society, in the spheres of healthcare and education. In both spheres, we aim for an equality of respect or consideration to which we link the role of the University itself, in and for the society. But for this to happen, we have to bring to the surface and include in the discussion that which is hidden or trivialized in conventional academic forums and, giving a voice to everyone involved, move toward a more ethically promising future.

Chapter IX

The Functionings Approach Applied to an Ecofeminist Conception of Identity

Príscila Teixeira de Carvalho

This chapter seeks to present the Functionings Approach as the universalist conception which is most compatible with a non-essentialist ecofeminist coalition policy. I intend to show that the current moral conception of universal respect fails in its purpose of universalist inclusion due to the conceptual arrangement that supports it. Both the criterion of neutrality and the criterion of rationality are suspect of limiting the moral community and, therefore, the political community. The first criterion disconsiders identities of gender, skin color, sexuality and social class. The second criterion disconsiders all people whose standard of rationality and self-determination are not considered universalizable, such as: people whose educational training does not consider the development of intellectual autonomy and critical thinking[16]; people with psychological functionings considered abnormal, and even non-human animals and other forms of life with which we live and on which we depend for planetary equilibrium. Based on the feminist consideration that the philosophical and everyday culture was constructed in an androcentric way, raising and justifying pseudouniversalist values, I postulate the hypothesis that the Functionings Approach may serve as a basis for a non-essentialist ecofeminist coalition policy, which is more compatible with the universalist inclusion that a morality of universal respect must support.

In the first part of the chapter, the need for a non-essentialist or non-fundamentalist ecofeminist coalition policy is defended, that is, one that does not involve an ontological characterization of the relationship between women and nature. A moral formulation that may allow the supporting of a plural and non-fundamentalist ecofeminist coalition policy is justified due to its compatibility with diverse feminist theories and ethics which are equally plural. In the second part of the chapter, the currently accepted universalist moral formulation is assessed, that is, Kantian deontological

theory. As we examine its supporting foundation**,** the plausibility and limits of its adoption for political conceptions of identity justice are also examined, above all, for an ecofeminist coalition policy that is not based on foundations that are not very representative. Finally, we will examine the adoption of the Functionings Approach as a universalist and pragmatic moral conception which is more inclusive and adequate for upholding such political conceptions.

2 Non-Essentialist Ecofeminist Coalition Policy

Ecofeminist theories explain that the same logic used to oppress women is mobilized to justify the abusive exploitation of "nature". In fact, we can observe that such logic receives a moral endorsement constructed on the antagonization of values which have historically been established in a hierarchical way. Aspects associated with reason, culture, universalization and neutrality are considered superior while aspects associated with emotion, nature, particularity and sensitivity are stigmatized and considered inferior. Women were, and still are, associated with values and aspects that are considered inferior in that hierarchy, a fact which resulted in a stereotyped construction of women. As a consequence, the view that is constructed of women and for women is of the human being who is inferior to men, since they are limited to immanence, to the body, to sex, to procreation, to intemperateness, and to instincts, characteristics associated with nature. This caricature hides the fact that all of these characteristics are found in men and women and, in doing so, it serves as a justification for stereotypes that function as ontological and essentialist fetters, apparently unable to be removed, which follow the image of a woman wherever she goes.

The capitalist and patriarchal origin of the exploitation of women by men had been mapped out very well by Friedrich Engels when, upon elaborating on the long history of male domination, he declared:

> The first division of labor took place between men and women for the procreation of children". Today I can add: the first antagonism of classes to appear in history coincides with the development of antagonism between men and women in monogamy, and the first oppression of classes, with the oppression of the female sex by the male. (ENGELS, 1978, p.70-71)

Nevertheless, since the materialistic thesis was and still is focused on the goal of mapping oppression as an assymetry in relationships of production, all forms of oppression that result from the connection between culture and economy– among which we include those that result in the exploitation and oppression of the female sex– are kept invisible and reduced to the dimension which women share with men. Engels's analysis did not focus on the diverse forms of oppression, but exclusively on the one that afflicts men from the working class. This fact did not stop his statements about the exploitation of women from finding reception in other analyses. Simone de Beauvoir explains that the reasons indicated by Engels did not explain such exploitation, therefore, neither the creation of private property, the sexual division of labor nor the need for an excessive strength for the use of techniques would have originally caused the oppression of women, but rather the imperialistic way men's consciousness was constructed: perceiving in his neighbor the Other and enslaving him in the name of his sovereignty.

Culturally and throughout time, the Other is not perceived or represented randomly, but by stereotypes that are constructed through values and conceptual arrangements. Ideas of universalization and transcendence were present in the male representation in opposition to the ideas of particularity, body and immanence that forged the female representation. This mechanism of antagonism and hierarchization based on concepts and values sustains the representation of women as the "Other", the particular, the opposite of the universal.

The stereotyped and caricatured representation mentioned above allowed women to be seen as beings whose particularistic perspectives are far from the characteristics sought by the criteria of universalization and neutrality that represent the basis upon which it is possible to become a person, and a moral subject, with full rights. Only the universal and neutral appear as a source of validity and ontological legitimacy, to which the so-called masculine characteristics always corresponded. In the context of the injustice, oppression and exploitation that affect women, the characteristics considered to be opposed to the model of reason – in the composition of the conceptual binomials or pairs mentioned above – assumed a status inferior to the hegemonic values in social structures. Devalued, made fragile, and considered synonymous with particularisms, such characteristics are, therefore, deprived of the potential of representativeness as universalizable

human characteristics. The latter were always identified with men, the superior members of the human species.

The philosophical questioning of ecofeminist theories begins with that analysis as a foundational reference of the thesis about the oppression and stigmatization of women, extending it to the relationship that men historically established with non-human animals. The link between these forms of oppression can legitimize the ironic thesis that the attitude assumed by men is that of the dominant male,[17] which would bring them closer to the nature of the other animals that they oppress. The forms of oppression can also be explained by the excess of anthropocentric arrogance. In this context, the double androcentric oppression, associated with the defense of the lifestyle of many women, created a women's movement in defense of nature and the planet. In fact, if aspects associated with nature are represented as inferior, it is not necessary to go far to understand that the animals that do not produce culture are represented as being equally inferior, a fact which, within the hegemonic culture, diminishes the dignity of these beings and justifies treating them as means of exploitation to the benefit and predatory interests of the financial markets. The euphemisms that support the pseudolegitimacy attributed to the killing, capturing and torture of non-human animals for consumption[18] – justified in the name of "our health" and "our rights over them" as if we were part of the food chain or as if we were living in situations of survival – attribute to such practices a false moral justification. Seen as mere instruments, women do not enjoy full respect in the moral and political community. If we recognize that the exploitation and injustices that affect women and the environment are associated with the interests of capitalism, the importance of the ecofeminist movement becomes evident.

Additionally, no one questions the system of billionaire profits that supports the atrocities against animals and the "coinciding" exploitation of women by the same system. We may, therefore, agree that the ecofeminist thesis can demonstrate and explain the same androcentric origin for the exploitation of women and nature. Throughout the world, women organize movements against the damming of rivers, the privatization of waters, monoculture agriculture, predatory fishing, nuclear plants, etc. However, we know that it is not only the communities that are near the places where these practices take place that depend on water from the rivers as well as on the full socioenvironmental equilibrium. All of humanity and nature suffer

from the irresponsible way with which the capitalist production system deals with the environment. This observation, however, contradicts any specific link between women and nature, since everyone depends on it. The confrontations and political engagements of these women and their communities form part of their pragmatic political agendas, an agenda that should be adopted by women and by men – in a word, by human beings. The assent to the ecofeminist thesis of double oppression does not apply to the attribution that it makes of the specific link between women and the environment. The solidarity of one oppressed being with another does not justify making women responsible for the "salvation" of the planet. Such an argument only reinforces the stigmas and essentialist views of women. Following this view, some segments within ecofeminism, instead of arguing in defense of the "reconnection" of humanity with the environment, advocate an essentialist view of women. One hypothesis is that the connection between the oppression of women and non-human animals may be the only link that mobilizes resistence against the exploitation of both. However, to retain the privileged role in caring for nature encumbers even more what we can call the surplus value[19] of female work, essence and "destiny." Even though we do not belittle the "avant garde" participation of ecofeminist women in defense of a more balanced and healthy social life – which directly affects the issues of social justice and the global economy – we do not need to argue for the addition of another predetermined task for women. Additionally, though it may not be its intention, the discourse that exhorts women as privileged caretakers of nature seems to appropriate issues of women's liberation, using them in the name of the Earth's issues.

The injustices that affect the female gender are intensified by the intersections of social class, skin color and sexuality. The situations in which citizenship status is diminished where such intersections occur cannot be overcome by the defense of environmental equilibrium or respect for the life of non-human animals, no matter how important they may be. In this way, theoretical contributions and political mobilizations specifically aimed at feminist issues stand out.

However, from the moment we recognize that the various forms of oppression of the female gender are sustained in the heart of the same structure of argumentation that justifies oppression against nature, we are led to accept and encourage policies of coalitions – an ecofeminist policy becomes an important ally against oppression as long as it does not replace

the fight for the emancipation of women. The way in which the oppression against non-human animals is thought about and articulated by ecofeminism must be in agreement with the way in which sexist and heteronormative oppression is articulated and thought about by feminist movements and theories. Greta Claire Gaard (1993, p. 21) affirms that the questioning about oppression among humans and by humans over nature is well articulated in the ecofeminist thesis, however the additive way in which some of these theories were constructed drives part of the feminist and queer movement away. Catriona Sandiland, for example, states that "It is not enough simply to add "heterosexism" to the long list of dominations that shape our relations to nature, to pretend that we can just "add queers and stir" in our formulations of what "oppression" and "exploitation" mean"(SANDILAND, 1994, p. 21). We should not do the same thing with the other issues involved either. Therefore, the formulation and defense of feminist ethics and policies of feminist recognition are not exhausted in the typically essentialist ecofeminist formulation. Instead, the defense of ecofeminism as a political form of coalition in non-essentialist models can be added to the fight against stigmas, oppression and social disparities. As Iris Young argues:

> From Zapatista challengers to the Mexican government, to Ojibwa defenders of fishing rights, to African-American leaders demanding that banks invest in their neighbourhoods, to unions trying to organize a Labor Party, to those sheltering battered women, resistance has many sites and is often specific to a group without naming or affirming a group essence. Most of these struggles self-consciously involve issues of cultural recognition and economic deprivation, but not constituted as totalizing ends. None of them alone is 'transformative,' but, if linked together, they can be deeply subversive. (YOUNG, 1997, p.160)

In this spirit we seek a moral approach that may support an ecofeminist strategy as a policy of coalition of forces, that may aim to dismantle the common origin of the forms of oppression, leaving, however, space for decentralized confrontations in which each category may be articulated with its own guidelines. Initially we sought to argue in defense of a criterion that may universally and equally consider all human beings, regardless of their gender and skin color: black, Amerindian and white women and men of the same ethnic groups. Such a parity of moral consideration can only occur within an approach that is concomitantly

universalist and identitary. With this approach we will assess two theoretical models: deontological universalism and functionalist universalism.

3 The deontological basis of universal respect: kantian morality

Kantian moral theory (1785) legitimizes and validates human rights based on universal respect. This theory is adopted by a broad set of egalitarian political conceptions. Deontological moral theory is structured around the conception that moral action is regulated by a duty, which is expressed in a universal law valid for all and, at the same time, a product of human liberty. How does this work in Kantian moral theory, adopted to such an extent by political theorists? Could we adopt it as a conceptual framework to support an ecofeminist coalition policy in the manner presented above?

Kant conceived morality as the expression of a duty and, at the same time, a product of human autonomy because, according to him, morality is governed by a universal norm consonant with the will itself. Human will takes the moral norm as an expression of its own authorship (auto-nomos), not as an imposition which is different or external (hetero-nomos) to itself. To be moral for Kant, is necessarily a consequence of one's own choice and will that self-impose the duty so as not to enslave oneself to one's own selfish nature. Human beings would regulate their sensitive inclinations and influences through the autonomous exercise of morality, even if these influences compete with duty. As Kant himself argues: "The dependence of a will which is not absolutely good on the principle of autonomy (moral necessitation) is obligation. Thus the latter cannot be referred to a holy being. The objective necessity of an action from obligation is called duty." (*op.cit*., p.57). Thus, moral duty for Kant appears as a product of that autonomy of the will, intrinsic to morality itself. Duty does not take on the purpose of the salvation of the soul or any religious argument of this nature. Duty must not have another motivation beyond morality in itself. For this reason, to be moral, according to Kant, is not merely to comply with duty, but to have a will committed to that duty: "The will is thought of as someone's capacity to control how he behaves in conformity with the representation of certain laws [....]." (*op. cit*. p.29). Duty is not governed by any external or specific prescription with a purpose apart from itself, but by

the moral law dictated by the will. It is the expression of the principle of morality that is self-sufficient, not having another purpose beyond morality itself. For this reason it is said that Kantian morality is deontological, since it is structured around principles and not ends:

> It isn't concerned with what is to result from the conduct, or even with what will happen in the conduct (its matter), but only with the form and the principle from which the conduct follows. What is essentially good in the conduct consists in the frame of mind – the willingness to obey the imperative – no matter what the upshot is. This may be called 'the imperative of morality.' (*op. cit.*, p.21-22)

In Kantian theory, the imperative of morality is an expression of human freedom and human will. This free will, in turn, is supported by what Kant identifies as objective human nature, that is, the nature that everyone shares, which is rationality. The rational nature of humanity is the principle of self-determination of the will and what makes it an end in itself. As Kant affirms: "Now, what serves the will as the objective ground for its action upon itself is an end, and if it is given by reason alone it must be an end for all rational beings" (*op. cit.*, p.65). Kant was seeking a characteristic common to everyone that could be an object of the universalization of the law and at the same time a condition of its application. For Kant, the subjective or particular nature of each being, that is, the psychological structure that constitutes the human being, does not serve such a purpose. Only the rational structure universally present in each human being, which according to him defines the human being, must carry weight in moral judgments and actions. In a deontological morality, the objective rational nature – by being an a priori, innate and atemporal structure, that is, the same structure that everyone shares not only here and now, but in all places and times – becomes not only the core of its conception of human nature, but the answer to justify the capacity of moral legislation. The universal sharing of this capacity takes the shape that the imperative of morality must assume as a concomitantly objective and subjective principle of actions, as well as an epistemological justification:

> So if there is to be a supreme practical principle, and a categorical imperative for the human will, it must be an objective principle of the will that can serve as a universal law. Why must it? Because it has to be drawn from the conception of something that is an end in itself and therefore an end for everyone. The basis for this principle is: rational nature exists as an end in itself. Human beings necessarily think of their own existence in this way, which means that the principle holds as a subjective principle of

> human actions. [...] so it is at the same time an objective principle – one that doesn't depend on contingent facts about this or that subject – a supreme practical ground from which it must be possible to derive all the laws of the will. (*op. cit.* p.30)

The imperative of morality is, therefore, an unconditional and necessary law. It is categorical because its basis is rational human nature, taken as an end in itself. This allows us to recognize that for Kantian deontological morality freedom is the basis of morality, just as the basis of freedom is rationality. The capacity of self-determination and autonomy of the will is conditioned by the rational capacity and serves as a support for the imperative value of moral actions, of their universal validity and of the principle that prescribes universal respect:

> [...] every rational being, as an end in itself, would have to be able to regard itself at the same time as universally legislative in regard to all laws to which it may be subject, because precisely this suitableness of its maxims for the universal legislation designates it as an end in itself [...] (*op. cit.* p. 56).

His moral philosophy provides the philosophical standardization for the universality of human rights, in the sense that it defends the idea of human nature, comprehending moral actions as the product of the consideration of each human being as an end in itself. This way, the categorical Kantian imperative, in its second formulation, attains what we can call a morality of universal respect.

Nevertheless, though he may adopt a characteristic of human nature which is supposedly objective and universal as a principle of free will and, therefore, valid for everyone, Kant does not deny that subjective human nature – psychological and sensitive – may influence the objective nature. This influence would also exert itself on the will – obtaining its autonomy from it and therefore its condition of morality – if it were not possible to make the universal principle of objective reason prevail over the subjective nature of each person. For this reason, he seeks a criterion that may allow the isolation of the subjective characteristics and the sensitive influences that carry weight in one's course of actions, reinforcing the objective nature that humans share:

> Thus if anything empirical were brought in as an ingredient in the principle of morality, it would not only be utterly useless in this role but would also do terrific harm to the purity of morality in practice – for in morals the

> proper, priceless value of an absolutely good will consists precisely in action's being driven by something that is free from all influences from contingent grounds that only experience can make available. (*op. cit.* p. 28)

In defining the form of the moral imperative, Kant does not merely characterize it as universal and unconditional, but he disassociates it from every result obtained and aimed for, arguing that they need to be governed without the influence of sensitive inclinations. Only by abstracting desires and sensitive particularities of the subjective human nature does he arrive at the longed for universal nucleus: Reason. Thus, characterizing the universality of his moral approach, he demonstrated that everyone is equally capable of acting morally. In doing so, Kant establishes the criterion of neutrality/impartiality as the condition that would allow the rational, universal and autonomous course of actions, which ultimately, would mean guaranteeing morality itself. With this step, neutrality then becomes synonymous with morality.

3.1 Limits of the deontological moral framework and implications of the orthodox adoption of this framework for a non-essentialist ecofeminist policy

It is not by accident that Kantian deontological theory is adopted by egalitarian conceptions. It indroduces the idea of duty to save morality from the arbitrariness and intervention of a (divine) authority external to the human conscience and actions. We can agree that his arguments save human autonomy and rationality from an authoritarian and pro-slavery morality, freeing moral duty from theological foundations – placed within the moral theory in a dated political context – bringing morality to human intervention. In view of this, the deontological morality, which is present in a good number of egalitarian political conceptions, can be understood as an attempt to show that moral action is possible when exercising freedom, even though human beings have a subjective, volatile and sensitive nature. The grandiosity of Kantian moral philosophy consists of this conceptual and argumentative movement.

However, in the way he does this, Kant limits and restricts the moral community, making it less universal than what he seems to have intended. The conceptual imbrication that Kant mobilizes to account for this task

compromised his theory's capacity for political and moral inclusion, complicating our goal of supporting an ecofeminist coalition policy based on his theory. Why? Kant makes use of the criteria of rationality and neutrality/impartiality, characterized as moral and as a condition of universality. Such criteria maintain the hierarchies that exist between human beings, and between them and non-human animals. If this hypothesis has coherence, those who adopt the neutral deontological point of view as a universalist and egalitarian approach, fail to perceive the material and cultural distorsions that led to a history of acts of moral injustice and disrespect. Despite guiding political and legal formulations of human rights, the supposedly universalist approaches of respect of the Kantian deontological conception cannot evade implications in the political sphere of justice, therefore, the ethical application of its moral conception to a theory of justice compromises precisely the universalization of respect.

3.2 Rationality: Maintaining Various Forms of Hierarchy

The assumption of Kantian rationality of the universalization of morality is shown to be exclusionary for two reasons. The potential to develop it and the real possibility to do so is not open to everyone, since many do not possess existential conditions to exercise that capability[20], whether it be for (a) psychological and/or neurological reasons or for (b) cultural and material reasons. Though it may not have been his intention, the rational capability as a means of self-determination of the will is not a characteristic we all share, perhaps because it is not the only form of rational expression.

(a) There are human beings whose psychological and neurological complexity differs from that which is recognized as "normal." As a result, these people adopt a form of reasoning and organizing the data around them in such a way that reason finds other mechanisms of action which many times do not allow them the use of self-determination[21], the structuring nucleus of the criterion of deontological moral grounding. When Kant supports the condition of human dignity and the reason for which human life must be treated as an end in itself based on the capacity for rational legislation and self-determination, he excludes the abovementioned people from the conceptual universe that characterizes humanity. The consequence for moral and political purposes is the negation of the condition of dignity

and morality to these people. Would the lack of correspondence with this standard of rationality, in which we comfortably find ourselves, make some people deserve to be recognized as less worthy than others? Must those people enjoy less respectability, dignity and moral consideration than us?

(b) Even among human beings who share the same neurological and psychological functions as us, there are those who even so are excluded from the conditions of sharing "rationality" – here understood as a condition of self-determination. In this case, the lack of commitment of government circles to make investments in formal public education at the basic level[22], exceedingly influences the necessary conditions for the development of a fully rational way of thinking. The rational potential, though it may be in principle the same for all of humanity, is developed based on access to formal and informal education that aims to form autonomous individuals. Deontological moral theory and egalitarian political conceptions emerge from the conception of "human nature" as essentially "rational," but the model of reason proclaimed is, in reality, a product of abilities and competences to be developed, as expressed in the laws that regulate Education in secular societies.

In addition, for a third reason, the argument in favor of rationality as a moral criterion is shown to be exclusionary, surpassing the universe of human beings. The association between the concepts of reason and freedom, a criterion for the composition of the moral community, also excludes all other non-human beings or life forms. The instrumental use of non-human animals is justified because they are not considered "ends in themselves," since they do not possess any condition of self-determination and rationality in the human models. Such logic has been empirically demonstrating the limits of this form of moral grounding. As this conception does not only orbit among people who are eager for knowledge, but rather constitutes a social consciousness that is shared, the notion of moral dignity and of an end in itself organizes our moral education and our society in good and bad aspects. It does not exert enough positive influence to stop acts of violence among us, in spite of being the basis for legal regulations against such acts. To the contrary, it has served as a justification for an instrumental use of nature in such a way that not only the animals, but all of us humans are also harmed.

That said, we can conclude that adopting the Kantian moral approach implies some limits to the constitution of the moral community. Such limits justify the greed and anthropocentrism and result in socioenvironmental imbalances. Human arrogance could not presume that these imbalances would even affect the global political economy. Though this scenario was not contemporaneous with Kant's lifetime – who, therefore, did not take it as an object of consideration – it now needs to be examined and overcome.

3.3 Neutrality: Maintaining Hierarchies Between Genders, Skin Colors, Social Classes and Sexualities

The criterion of neutrality as an expression of normative reason implies not only that sensitive influences and interests be isolated, but also that assymmetric treatments be ignored. We can consider at least three aspects.

Although the criterion of neutrality constitutes a way of granting a capacity of universalization to the moral norm and moral judgments, to legitimize the principle of universalization based on such a criterion can be seen to be compromising. The compromising aspect springs from the isolation of the situational contexts in which the moral judgments are applied, directly affecting the formulation of theories of justice and public policies, for which the moral basis that justifies them is indispensable. In this sense, to isolate real conditions and situations of life directly compromises the universalist effectiveness of morality, mainly ineffective are the issues of justice. Additionally, such isolation becomes a contradiction, since it neglects the fact that certain individuals are affected negatively by the fact that equality is not considered as a goal to be reached, but rather as an established fact. The supposedly neutral procedure prevents injustices from being corrected and placed under just and restorative universalist conditions.

The adoption of a neutral approach functions as a negation of the differences formed between human beings and of the fact that these differences are constructed based upon the material disparity of resources and property, which are produced collectively, but distributed by other criteria. We are experiencing a moral and political impass. (a) If we want to maintain the current disparate and asymmetrical distribution of wealth and

material goods as it is, we will have to come up with transformative compensatory mechanisms, something which necessarily involves the consideration of identities of social class, gender, ethnic group and skin color and sexuality of the moral subject. (b) If, on the other hand, we want to stop generating material injustices, we will still have to consider social subjects according to their real needs, thus according to their social identities. This step also involves the consideration of gender identities. (c) If we want to orient our theoretical formulations and public policies by the shared criterion of universal respect, because such respect is not applied, we will have to seek another basis for equality. Without adequate moral and political treatment, a morality of respectability for all cannot be established, which leads us to agree with the Kantian project of making morality universalizable. However, the three situations above show us that universalization cannot depend on falsely universal criteria. The identities of those involved interfere with the mapping of the political community, thus, being relevant for the constitution of the moral community. To ignore them means to ignore the real scope of the morality of the respect. To take them into consideration means to formulate an inclusive moral conception, but not a neutral one.

The justification for using the neutral moral approach in political theories could be based on the argument that the inclusion of subjects of justice and morality in a neutral way aims to provide an equal representation for everyone. The application of the "moral point of view" would result in the perpetuation of the inequalities, since neglecting the inequalities implies not addressing them. One wonders: if the injustices always had a "destination", that is, if citizens with a given profile were always disadvantaged, why should the correction presuppose a neutral starting point? If we understand theories of egalitarian or universalist justice as spaces of consideration for all members of society, then, the moral basis that supports it needs to represent the needs of each person. Such needs are formed based on the identities that people assume. Even though the premise of moral universalization tries to disregard the cultural and psychological scenario presented above, the characteristics of gender, skin color and sexuality are present in each person. Thus, the political approach of disregarding this scenario and the characteristics at issue cannot be justified based on the defense of the abstraction of the sensitive facts, as Kant argues (1785). We now have the "intellectual adulthood" to place the Kantian

contribution in parameters that meet the philosophical requirements of inclusion without the need to retreat from the universalist intentions of our moral and political formulations. To consider the plurality of social positions in the representation of the subject of justice does not necessarily mean to treat people in a non-egalitarian way under a moral point of view. If the criterion of neutrality is understood as synonymous with egalitarian treatment, we need to alter it based on another moral point of view.

The epistemic and political outlines that are hidden in the criterion of neutrality not only support an exclusionary conception of moral universality, but when they are carried over to political conceptions, they represent the definitive exclusion of fair demands originating from individuals' social and/or natural identitary characteristics.

Non-human animals and nature as a whole do not escape from the questioning over the adoption of the criterion of rationality as a criterion of moral universalization. Human beings are already divided by this evaluative scale, for while some are excluded from moral consideration due to their way of exercising reason, others are excluded as a consequence of their lack of cultural preparation.

Social categories, gender, skin color and sexuality escape from the filter of rationality, but do not escape from the filter of neutrality. Therefore, to make the framework of the universalist support for Kantian morality a foundation for egalitarian policies, without political questioning, ended up functioning as a dissimulation in which the individuals who are fully represented are white people, males, economically advantaged and culturally prepared according to standards of intellectual excellence. This philosophical foundation of morality carried over into politics prevents us from characterizing the subjects of justice according to their identities, particularly if they are not contemplated in the aforementioned subtexts accepted under the mantle of neutrality.

That said, we conclude that the supporting of an ecofeminist coalition policy, without valuing social identities in a non-essentialist way and without the inclusion of non-human beings as part of the moral community, becomes impossible without revising the orthodox deontological theoretical framework. It is necessary to undo the historically established association between moral dignity, an end in itself and justice, on one side, and the criteria of rationality and neutrality, on the other. To

revert this scenario that populates the social imagination and moral arguments is a *sine qua non* condition for us to universalize moral respect and social justice.

The Moral Approach of the Functionings promises the expansion of the moral community in this universe of complexities. This is the reason why it is currently the best candidate to fulfill such a task, as we will elaborate hereinafter.

4. Expanding the Moral and Political Community with the Functionings Approach

According to Dias, the universalization of the moral principles that guide social institutions and relationships based on a liberal approach is not capable of considering the diverse demands of social groups. The problem is that the great majority of conceptions of justice is supported by the same deontological universalist foundation that supports liberal conceptions and governments. Calling attention to the fact that not all exercising of rationality correspond to the model upon which deontological moral universalization is based, Dias maintains that this criterion would exclude both non-human animals and people who are not capable of self-determination. Surely, the approach that adopts rationality as a foundation creates such complications:

> [...] the choice for rationality or the power of self-determination as basis for determining moral conduct and principles delimits the scope of morality to those beings that are capable of manifesting such an ability [...] consequently, we must discard the possibility of incorporating as objects of moral consideration babies, the mentally disabled, senile individuals, future generations and, until the contrary may be proved, our pets and the great majority of non-human animals, among others. (DIAS, 2014c)

Additionally, the Moral Approach of the Functionings considers the political universe in which the subjects of justice are inserted, pointing to the capacity of self-determination's dependence on political and social contexts and conditions. The association of rationality with the power of self-determination is the philosophical basis upon which the requirement of moral consideration toward human beings, as an end in themselves, is supported. This way, in rejecting the notion of rationality as a foundation for universalist morality, Dias returns our critical consideration to the inescapable relationship between morality and politics:

> In reality, in a world of scarcity and economic dependency in which we live there are enormous contingents of human beings who will never be capable of exercising autonomy. If the exclusion of these people causes in us repulsion and indignation, then we must take our sentiments seriously and seek something more basic that will bring us closer and liken us to all of these beings. (DIAS, 2014c)

It follows that it is necessary to recognize that, even though self-determination is a capability which is present in the majority of us, it depends on physical, psychological and in the case above, also material conditions. The exercise of such a capability is not capable of supporting an inclusive and plural political/moral community. Therefore, if the subjects of the moral community are only the subjects that find themselves in the condition of exercising autonomy, we will have to disconsider the rights of various social subjects which we would like to see included by our conception of justice. We can conclude again that the deontological moral point of view cannot justify itself in light of the diversity of social and existential situations, for the horizon of morality and the demands for justice can not be based on criteria which are not universalizable.

Thus, Dias maintains the universalist approach, fundamental for a conception of universal respect, but her supporting framework eliminates the criteria of neutrality and deontological rationality. In contrast, her approach offers a supporting structure that permits us to increase the number of those who are part of the moral community, including not only beings already contemplated in the deontological theoretical formulation, but also individuals, social groups and non-human animals.

If, without the support of rationality and autonomy, such an approach is still capable of justifying its claim to universality, we will now be able to consider as included the human individuals and non-human animals that were previously absent from our forum of moral discussion.

For this purpose, Dias proposes to expand the very scope of moral consideration, as well as the range of our universal principles, inspired by the second formulation of Kant's categorical imperative:

> Having abandoned the defense of neutrality, we can now set aside the search for an ultimate foundation for the principle of equal respect and defend it simply as part of a conception which, even though it is minimalist, is good, underlying the conception of justice which we judge to be reasonable to demand for contemporary societies (DIAS, 2009, p.84)

> [...] By committing our conception of justice to neutrality regarding the many conceptions of good in the name of an ideal of equality of respect or consideration in the political sphere, we abandon any assumed primacy of what is just over what is good and move towards a conception of justice which necessarily binds it to the adoption of certain values and the effort to promote them. (DIAS, 2014a)

The discarding of the criterion of neutrality in the formulation of justice causes initial difficulties for our objectives, since by liberal logic, this decision would consequently mean that there would be a discriminatory treatment. Dias would have to find a universal justification able to be supported by different criteria than the classic ones: rationality and neutrality.

In the second chapter of this book, the author argues that "inclusion" and "equal consideration" are requirements that mark contemporary politics and allow pragmatic reasons to be mobilized on behalf of a universal and egalitarian principle of justice that extends equal respect to all. The author assessed some models in which the idea of equality serves as guidance for a policy of universal respect: the defense of equality of resources, of wellbeing, of training and of freedom of functionings. She mobilizes critiques of the theory of equality of resources, for representing the approach of an abstract moral agent. She condemns the theory of equality of wellbeing for the insuperable difficulty of identifying a primary criterion for its application. She criticizes the theory of the freedom of functioning for being based on the freedom of choosing pre-valued functionings and finally, she chooses as the focal point of equality the functionings themselves which appear in the last theory mentioned.

According to the Functionings Approach, proposed by Dias, the functional integrity of a system, be it human or otherwise, is the focus of moral considerations. This approach commits morality to the flourishing and good performance of all functional systems. As stated by Dias: "[...]We have already said that, according to this new approach, not only are human beings and sentient animals included in our scope of moral consideration, but so are also the many functional systems with which we are familiar and maintain some type of relationship" (DIAS, 2014c).

Thus, an initial question arises: how far are we really capable of understanding forms of life so different from our own, to the point of being able to respect or look after its flourishing? Even if we have the intention of

understanding all those in our moral consideration universe, would there not be a cognitive barrier in place here that would easily undermine the purpose of a universalist moral? She continues:

> If "to attribute equal normative value to all" or "to consider everyone equally" means to recognize each individual's right to develop his or her own functionings, then our differences must be taken seriously, and we should ask ourselves, in different contexts, what type of distribution is needed for us to achieve this ideal of justice. (DIAS, 2014c).

That said, the universal principle of respect formulated through the Functionings Approach, in addition to being egalitarian, would allow the recognition of identitary demands through its political representations, thus forging a moral conception that maintains the universal normative value, without the political and moral onus of the concept of neutrality. According to Dias:

> [...]Those concerned here are not deterritorialized, atemporal agents, whose desires have been emptied of any and all content, but instead are human beings with concrete ties that largely delimit their demands and accomplishments. Therefore, a universal principle of respect requires that we should now equally recognize certain groups' demands for a form of political representation capable of expressing the values with which they identify themselves. To meet this demand is the goal of so-called identity policies. (DIAS, 2014c)

As a result, the difficulties we find in the use of the deontological grounding of Kantian morality could be combined under at least three difficulties found in the Kantian theoretical framework, which are now surpassed by the functionings approach.

Having done this, we can consider that a universalist and egalitarian approach can be raised without us having to maintain the validation criteria of deontological morality, which would make impossible the supporting of conceptions of identity and above all, of an ecofeminist conception along the lines which I am attempting to support.

Adopting the Functionings Approach allows us to provide a non-fundamentalist, or non-essentialist, universalist moral basis for any ecofeminist conception.

We expand the moral community by including all possibly concerned, committing our political formulation to all of them, whether it be individually, or through their ties, as social groups. This way, we

guarantee recognition of identity under the universalist perspective. Furthermore, non-human species were included, incorporating social and environmental justice in a single moral conception.

Following the Functionings Approach we interpret the moral point of view in a more inclusive way. We consider the conditions of functioning of each living system as indispensable for its fulfillment and flourishing; independent of biological, psychological and cultural differences, including animals or varied functional systems. Finally, we consider such conditions of functioning and flourishing as part of the identities of each being or system. Thus, we can affirm that we have a universalist and at the same time identitary moral foundation focused on the guarantee of development of the identities of each being as a defendable matter of social justice.

In addition to the inclusion of animals and other systems as integral parts of the moral community, such an approach also assumes, in the case of human beings, that cultural, intellectual, psychological and material demands, as well as demands for recognition, be considered as much as the needs of other functional systems, even though they are differentiated in terms of their nature and complexity. The advantage of this formulation is absolute for the inclusion of nature as part of the moral community.

The defense of the category of gender *stritu senso* would not need to be done by a functionalist description, since this would be equivalent to employing the same kind of argumentation that we criticize in ecofeminist theories, that is, the connection between female "nature", flora and fauna. It would also be equivalent to arguing that women are not excluded by the criterion of rationality, which we seek to discard because it does not apply to nature, differentiated psychological conditions or lack of education. However, we saw that the logic that supports female oppression is the same logic that maintains the domination and abusive utilization of the environment and that excludes the recognition of real identities. Therefore, such logic excludes the categories of female gender, black and Amerindian skin color, sexuality and social class, and includes only wealthy white men, considered as the models of neutrality. The dismantling of the culture and of the moral justification that represents the oppression of the environment and of human subjects, falls necessarily under another model of moral and political grounding, justifying an approach that includes not only social and personal identities, but also non-human beings.

The adoption of the criterion of neutrality in political conceptions functions as a way to disguise or conceal a framework which is supposedly neutral, but in practice is androcentric, classist and anthropocentric. As a result, I consider the Moral Approach of the Functionings, as formulated by Dias, as a moral and pragmatic solution for the grounding of an ecofeminist coalition policy, without having to abandon a feminist ethic.

The educational advantage of the moral grounding of the Functionings is that it generates reasons for the creation of a new culture, because it considers the diversity of beings as a value of equal universal, and therefore moral, respectability. The moral, epistemological and political advantage of the Functionings Approach for an ecofeminist coalition political conception, in the terms presented in the beginning of this chapter, is that it allows us to include, concomitantly and with equal value, different human identities and the other forms of life on this planet in a single normative system of coalition.

Chapter X

The Functionings Approach Applied to the Environment: The Case of the Environmental Disaster of Minamata[23]

Fábio Alves Gomes de Oliveira

This chapter aims to illustrate the functionings approach as applied to the issue of the environment. For this purpose, the case of the environmental disaster of Minamata will be used as the central thread of the debate. In the first section, we will present the diverse dimensions of the case up until the Minamata Convention, which took place in the year 2013. In the second section, we will present the way in which solutions for environmental disasters continue to choose a hierarchy that gives priority to one of the interested parties, revealing its anthropocentric nature. We will highlight criticism resulting from an ecocentric approach as a pathway that leads us toward a possible expansion of our understanding of the ecosystem of which we are a part. In undertaking this presentation as a possible pathway to deal with global ecological problems, we will identify some impasses which, according to this text, are best resolved by the functionings approach. Thus, in the end, we will check to what extent the functionings approach helps us (i) in the expansion of the moral community, including other types of systems, such as the case of the environment, and (ii) in the attempt to redefine the meaning of environmental justice currently endorsed by important international institutions, such as the United Nations.

The Case of Minamata[24]

Environmental pollution in Japan has accompanied the industrialization of the country since the Meiji Era (1868-1912). It was in the decade of the 1950's, however, that illnesses caused by the

contamination of waters from the factories and air pollution began to be included in the agenda of discussion in diverse areas of Japan.

In the beginning of the 20th century, the region was marked primarily by fishing and agricultural villages, which was the main economic sources for the region's population. The 1930's, however, moved the direction of Minamata. In 1932, the Chisso Corporation[25], an integral part of the local economy since 1908, began the production of acetaldehyde, used in the production of plastics. In a short time, the mercury used in the process of plastic production contaminated the water of the region. In that time period, domestic animals, as well as residents of the Minamata region, depended almost exclusively on fish and shellfish from the bay as a food source. Additionally, fishing was the primary source of employment for the coastal residents, driving the local economy.

The Minamata environmental disaster, however, began to gain more visibility in the mid 1950's, when some human beings began to show symptoms of mercury poisoning/contamination. Before this, nonetheless, some animals, especially cats and coastal birds, had already been contaminated, so much so that Minamata became known as the city of the dancing cats[26]. Still, there is no record of any political action directed towards the care of those animals at that time. Nor is it possible to identify any record highlighting environmental concerns focused on the contaminated waters of the affected marine animals, as happened with the fish and shellfish from the bay.

1.1 The Convention

Decades later, the beginning of the year 2013 was marked by another international effort to discuss possible legal mechanisms that might guarantee better environmental protection. It was during the Minamata Convention, which took place on January 19 in the city of Geneva, that more than 100 international representatives presented a global assessment related to the control and reduction of the release and/or emission of mercury. Such a meeting happened as a result of a history of impact on human health and the environment, as in the case of the contamination in Minamata – which was the reason behind the name given to the Convention – a coastal city in the southwest of Japan, where the contamination caused

serious environmental impacts and irreversible effects on the health of the local population. Debates about the risks to human health and about the enrivonmentally problematic persistence of mercury were the principal focus of discussions at the Minamata Convention. The parties involved in the international meeting agreed to ban, by 2020, the production, exportation and importation of products containing mercury, including batteries, light switches, cosmetics and medical devices. As for actions, the agreement establishes the gradual adoption of measures and implementation of technologies that may reduce the release of the pollutant.[27]

The treaty, which is the result of a series of meetings, including the Minamata Convention, was open for signing at a special meeting that took place in Japan in October of 2013, and intended to include other aspects of the agreement under discussion. The identification of populations at risk, the need to expand medical care and better training of healthcare professionals in the identification and treatment of effects related to mercury were aspects included in the final agreement.[28]

Among the main points agreed to by the parties of the Minamata Convention, the following are noteworthy: (i) The substitution of mercury by 2020 in products whose production, exportation and importation are high (batteries, light bulbs, thermometers, blood pressure monitors, soaps, cosmetics), (ii) Reduction in the use of dental fillings using mercury amalgam,[29] (iii) Monitoring of the price of gold, where mercury is used to separate the gold from ore-bearing rock, and (iv) Control of gas emissions from coal plants, the largest source of mercury pollution worldwide. Awareness campaigns and support for mercury-free alternatives became part of the plans of the treaty.

1.2 The Process Leading up to the Convention

From the first signs of the environmental disaster and disease in Minamata[30], in the mid-1950's, to 2013, the year when the Minamata Convention took place, some facts marked the attempted agreement between the parties involved in the process. This fact is extremely relevant to the debate that will be developed in the second and third parts of this chapter.

Chisso Corporation, responsible for the contamination of the bay, employed a good part of the region's population and, were it to close, the

residents of the region would be out of work and would lack the basic means to feed themselves. It was one of the first and classic cases of conflict among the variables: development vs. socioeconomic growth vs. the environment. However, before interpreting this conflict based on these terms, which are apparently disconnected and conflicting, it becomes necessary to considerer how the conflict between these variables was presented and which parties were in fact recognized during the process and debate.

1.2.1 Determining and Prioritizing the Parties Involved in the Minamata Disaster

Researchers from Kumamoto University concluded, still in the 1950's, that the symptoms observed in non-human animals and later in humans were caused by what they called "poisoning by toxic substances." Based on this research it became possible to investigate the poisoning and soon relate it to the waste released by the Chisso Corporation into local waters. However, to publicly denounce the company was no easy task since Chisso Corporation was controlled by an important employer in the city. Nevertheless, this did not cause the research to stop. In fact, the medical research team dug even deeper, to the point where they were able to conclude that the deaths were being caused by mercury poisoning, through consumption of fish and other contaminated sea food.

Because of the findings of such research, for some years, the Chisso Corporation hid the use of mercury in its production. However, on November 2, 1959, a group of local fishermen destroyed the property of the Chisso Corporation, with the goal of attracting public attention to the matter. Even so, it was only in 1968 that the Japanese government recognized the source of the contamination. During that period, more than 900 people died due to mercury poisoning.[31]

For a good amount of time, compensation for the damages caused by the Chisso Corporation was discussed – though new cases of contamination that appeared during the negotiation process, which began in 1959, complicated even more the final verdict on compensation. Only in 1973 was an agreement reached, mediated by the Japanese environmental agency Green Pia Miki. The proposal included, in general terms, compensation based on the classification of the gravity of the symptoms:

annual payments to patients – with the purpose of covering residential expenses – and help with medical expenses. The Japanese government was also willing to provide ongoing medical exams for the people who continued to live in the affected region.

Although environmental protests have contributed to the democratization of the parties involved in the Minamata disaster, to what extent is it possible to affirm that they freed Japan from the system that first oppressed the fishermen and victims of Minamata disease? This question makes sense when we observe that, although the doctors and government officials may have traced, and consequently discovered that the mercury poisoning was the factor causing Minamata disease, no immediate action was taken to solve one of the main problems: the quality of life of the population in the affected region. Here we can suppose that this happened because most of the victims of the contamination were non-human animals or constituted a poor, voiceless minority of human beings, lacking influential political and/or economic power. At this point, we are not yet highlighting the involved parties which were not included even after the process of compensation of the victims, as the case of the non-human animals, the bay itself and its coastal surroundings.

The victory took place through the evolution of public sentiments; the involvement of the press ended up helping the democratization process, making more people aware of Minamata disease and the pollution that was generated.

2 The Environmental Issue and Its Possible Narratives

Based on this specific case, we will begin to analyze the way in which environmental issues are presented and how they can influence and/or determine a kind of view that we human beings – and also local and global political institutions – construct over other forms of life and the (functional) systems that operate among us. Anthropocentrism and ecocentrism will be presented as opposing approaches that seek to offer different interpretations of the man vs. nature relationship. The case that happened in Minamata – later handled by governmental and supranational agencies (the United

Nations) – attests to the hypothesis that an anthropocentric slant, that legitimizes what is morally and politically recognized in an environmental debate determines even how we think about possible solutions. What are the repercussions of an anthropocentric slant? Would it be possible to find a more inclusive and ethical alternative?

2.1 Anthropocentrism: Man as the Moral Center[32]

Human beings are, in fact, the animals that most transform their environment. This human capacity to interfere with the environment, to alter it, we call *antropogenia*. It means, "[...] human capacity to alter environments and substances [...]." (WALDMAN, 2006, p. 36) Maurício This process of interference, transformation and organization generates varied *modos vivendis* and, thus, diverse social, political and cultural organizations. Endowed with an imaginative capability, human societies constructed and continue to construct social, political and cultural codes that form interweaving representations of reality, imprinting "on the environment they inhabit, based on their perception of the world, all sorts of transformations. Such representations [...] are decisive for the modeling of the inhabited space and the ordering of social time." (WALDMAN, p. 39. 2006).

The environment in which human beings perceive themselves becomes part of the set of symbols that make up these representations in each society and time. Every society creates a way of relating to nature, signifying the natural envirnment according to its values. "Every society has a theory of nature that is its own, that is expressed in its intellectual configurations, if not likewise in complexes of symbols, of instruments and of practices." (BALANDIER, apud WALDMAN, 2006, p. 40). Given this variety, the anthroplologist Kay Milton points out a problem that affects the ecological debate globally while highlighting an anthropological component of the discussion: the diverse experiences of the world affect the ecology in a differentiated way. Milton alerts us that it is necessary to understand that each interpretation of what ecology is must be thought of within a specific context; in our case, for example, it is the product of a western culture. The problem lies precisely in the attempt to turn this particular interpretation into a rule that ignores other interpretations, coming to determine

international mechanisms that endorse a single mode of understanding nature.

Milton (1996), therefore, calls us to think about and question the way in which the environmental issue is being discussed, given that it would be the product of a much deeper base of values, supported, especially, by western anthropocentric criteria that can be put into question by Anthropology and Ethics. Would there be, however, another way that could direct us to a more just, a more ethical pathway? This possible pathway will be presented in the next section. In the meantime, we will try to underline the reasons that allow us to question anthropocentrism as a mediation channel between the conflicts of interests of human animals, non-human animals and nature in general.

In general, we can say that the anthropocentric approach treats man as the center of moral discussions, and in this case, of environmental concerns. All other parties involved revolve around the human being, gaining more or less importance as they are more or less useful to, or are needed by, human life. The question we then ask at this point is: why?

Here it becomes necessary to stress that during a good part of the history of human thought, the philosophical literature, as well as judicial literature, neglected individuals who currently have become subjects of law. What does this mean? That, for a long time, a big part of the production of knowledge ignored elements thar are essential to a larger and more inclusive debate. Gradually, the evolution and expansion of this moral debate have tried to point out some ethical mistakes in the arguments that defined those who could be a part of our moral community. We need to acknowledge that we have advanced in many areas. For example, we have begun to include other human beings previously blocked from entering our moral circle (and consequently, our circle of rights), as is the case of women, blacks, and more recently, gays, in Brazil. These human beings became a part of our deliberative forum, no longer constituting mere objects of our consideration (with more or less importance), gradually occupying their seats as subjects with their own demands, with their own voices.

But how far can this expansion go? Could it go beyond the limits focused on the distribution of rights to human beings?

According to the defenders of the anthropocentric view in the context of the law, an asset that is not alive, material, as well as a life that is

not human, will be able to be protected by environmental law as long as it is relevant to guarantee a healthy quality of life for human beings, given that the latter are the only rational animals and, therefore, the target of judicial norms. It would be man's responsibility, therefore, to preserve all pecies, including the human species. (FIORILLO, 2006, p.16). But to what extent could rationality be the criterion that demarcates morality and produces its hierarchy?

The human being is considered the center due to his capacity to think, a capacity that makes him, within the anthropocentric view, superior in a hierarchy composed of other beings. In this sense Fiorillo affirms: "It is not possible, in a manner of speaking, not to see that environmental law has a necessary anthropocentric view. Necessary because, as the only rational animal that exists, only man has the possibility to preserve all species, including his own." (FIORILLO, apud SILVA, 2003, p.27)

But, as Maria Clara Dias (2014) indicates based on the functionings approach as highlighted in this book: how could we adopt a moral principle supported by the criterion of rationality if it excludes other human beings who will never be able to become capable of attaining such a capacity? Here is a decisive task: either we begin to exclude all beings incapable of exercising rationality (including some human beings) or we begin to seek other criteria that help us identify a more basic sphere that may determine those who are inside and/or outside of our moral community.

This effort to find alternative pathways to anthropocentrism is also one of the most fundamental endeavors that comprise the ecocentric idea. This approach will be presented below with two objectives. First, aiming to demonstrate that it is possible to choose a pathway that is not a hostage to anthropocentric principles. Second, expanding the field of morality based on another criterion, which is: life. This way, the ecocentric approach would be the approach which begins to question the reason why other forms of life are not a part of the group of beings considered by our moral and political actions and decisions.

2.2 Ecocentrism: Beyond Man

The ecocentric view defends the idea that other forms of organization have a meaning and an understanding of their own. In this sense, the environment as a whole could be understood as the expression of

creation, of life, of nature, or of one or more gods, according to the perspective one adopts. Despite the distinct bases that support the ecocentric outlook, the conformity among them points to the idea that not everything that exists can be reduced to its usefulness to man – there would be other reasons that escape the anthropocentric logic of perceiving the world, our relation to it and its own dynamic (GONÇALVES, 1990). Besides, since the current concept of nature is completely different from the concept that was formulated in previous time periods, we could presume that the formulation of such concepts happens through a social process that is historically influenced and strongly determined by the adverse power relations that make up the political and economic scenario of a given period of time. Thus, there would not be an impediment to our reformulating yet again the concept of nature based on our new ecocentric knowledge.

The word "ecology" appears in Haeckel's work *Anthropogénie* in 1874. There, the word was used to account for a set of groups of individuals of any kind of organism that, occupying the same area, were perceived as a community. The community and the non-living environment, in this case, are linked, functioning together as an ecological system or ecosystem (ANTUNES, 2002, p. 149). Thus, the concept of ecosystem presented by the ecocentric approach allows us to surpass the conception based exclusively on man, expanding the notion of community to a complex unit with the nature of a system. Amidst this complex system, all the parts begin to play a predominant role in its proper functioning. This way, not only human action stands out, but abiotic factors (air, water, minerals and energy) and biotic factors (plants, vegetables in general, animals and microorganisms) become part of this environment, the ecosystem.

This approach that, in a way, presents itself as a worldview, assigns nature a value of its own (nature as an end in itself) and seeks to surpass the boundaries of the anthropocentric view, bringing a new ethic into existence. Nature is attributed with moral relevance capable of justifying a moral action in its benefit.

Based on that dimension, ecocentrism would identify a serious moral problem in the anthropocentric view: to give man the role of dominator of nature, of which he may take advantage in an unlimited way. From this same logic, various other forms of domination would also be

derived: the domination of the anthropocentric western civilization (male, white and European) over other peoples, the power of men's strength over women's supposed fragility, the preponderance of the wealthiest over the least privileged classes, among other examples. Presented this way, the environmental crisis surpasses the ecological crisis and begins to be perceived as a crisis of values, a crisis of a society and its worldview.

According to Nancy Mangabeira Unger, the ecocentric approach arises

> "from the moment we surpass a world view that tried to reduce all beings to the condition of objects whose value resides in the profit they can produce. This ethic [...] involves a radical change in our way of understanding our identity as humans and our place in the Cosmos, our place among other beings." (Unger, 1991 p.71)

In the search for a balanced environment, it is ecocentrism's task to raise society's awareness of the intrinsic value of nature. Such a task must be capable of demonstrating that, instead of constituting a means to reach other ends, nature possesses its own value and deserves to be thought of based on this value. Even with the discovery of new local and global mechanisms for the recovery and protection of the environment, the use of environmental assets could not be centered only on human desires but on the interpretation of other lives that comprise the environment. This change in attitude and way of thinking would affect not only the morality at play, but also the way political entities would perceive the environment. As a result, the concept of environmental justice adopted locally and globally would be revisited and modified significantly.

We could question, however, to what extent the notion of life defended by an ecocentric view can function as an essential pillar to suport the environmental approach in this debate. Could not this criterion lead us to other fields of the ethical debate from which we may stray?

It seems as though the functionings approach offers us the possibility to expand the moral community acclaimed by ecocentrists without taking on a worldview where the notion of life must be preserved at any cost. Does this mean that the focus on the functionings enables us to identify a third way? To what extent does the functionings approach, when applied to the environment, help us redefine what we call environmental justice?

3 Redefining Environmental Justice in Light of the Functionings Approach

The more we research and understand the natural and artificial phenomena that mark the problems of our time, the more we realize that a fragmented assessment is impoverishing. We are living in a time period in which our scientific knowledge makes us believe that we are experiencing systemic problems, that is, problems that are interlinked and interdependent. To treat them in a simplistic and isolated way would be, in reality, to ignore a fundamental part of what constitutes them.

To elevate the systemic character that blights environmental problems is, in a way, to prove the need for us to modify the facet through which the problem has been presented throughout the history of humanity. Actually, it means demystifying the history of humanity and deconstructing the focal point on which we base our outlook of the world. A crisis of perception seems to command the entire process of thinking that determines an obsolete, inadequate, immoral and unjust worldview.

Ecocentrism, as an approach that dismantles anthropocentric thinking, aroused a new outlook on the role of human beings in the world. The human being can be understood as one more among many other members of the environment: there is an inter-relation of mutual dependence between man and nature. In this context we notice that the literature on morality and political philosophy needs to help and be helped in order to overcome concepts that do not contribute to the solution of current issues. It is necessary to establish how careful a theory must be that seeks to offer a new way to understand the types of relationships established among humans 1) individually, 2) with one another and 3) with the space where they live.

To this end, we will emphasize that the functionings approach offers a careful and updated model capable of encompassing natural, artificial and cultural elements for a new time, challenging the traditional model that anthropocentric and ecocentric theories are unable to overcome. If, on one hand, ecocentrism points to the connection and interaction between the various forms of organization in the ecosystem – composed of biotic and abiotic factors – the functionings approach, in turn, enables us to take a closer look at them and also at other factors that make up what we call a moral community.

With the focus on basic functionings, we are summoned to adjust the "recognition of functional systems' abilities or characteristics and the corresponding respect for their specific forms of implementation." (DIAS, 2014c) In this case, what would cause global conventions around environmental disasters to continue to prioritize only the interests of some human beings to the detriment of other human beings and other parties involved?

Technological, scientific and industrial progress, as embraced by international discussions on global climate, at many different levels, continue to meet the demands of human needs to the detriment of the environment itself. Recently the creation of artificial cells in the laboratory, for example, renewed society's hope to reestablish a healthy and balanced environment, especially in accidents involving oil spills in the ocean.[33] It happens that, even if our hope for new methods of recovery of degraded environments materializes, nature continues to have a character that is merely instrumental. The Minamata Convention, organized by the United Nations, would also fit in this line of thought and action that uses the environment itself and other non-human beings as instruments in the name of environmental justice.

By assuming the ethical and political conception of the focus on basic functionings, we would be capable of saying that the Minamata Convention does not mobilize, in fact, all the relevant moral aspects in order for environmental justice to take place. This is the case because at no point in the treaty were the death of non-human animals in the bay of Minamata and the environmental damage (without mentioning the environment's usefulness to man) even indicated as part of the agenda of the discussion about the pollution of waters by mercury. Environmental justice should in fact, based on the functionings approach, banish the hierarchy of some kinds of functional systems over others. In this case, not only the demands of human beings should be considered in the global discussion about the environment, but all other basic forms of functionings, whether they be other forms of life, such as the non-human animals at issue, but every functional system directly and indirectly affected.

4 Conclusion

Defending a rather different view than the traditional model of environmental justice, which is that human beings occupy a prominent place in the assessment of environmental disasters, the functionings approach seeks to understand the specificities involved without placing them in hierarchies. Breaking with the perception that non-human beings and the environment itself are things, without moral consideration, the environmental justice underlined here raises the environment and non-human beings to the category of rightholders, therefore offering a new way to understand the concept of justice as a whole. With this constituting a clear break with the anthropocentric paradigm, an approach focused on the functionings is also an alternative to ecocentrism since it does not call for a simple characterization of life, but understands that it is the functional systems that need to be perceived morally and politically.

Despite being close to the deep ecology theorists regarding the expansion of the moral community, the functionings approach takes a new look at the moral foundations that support this expansion, highlighting the importance of perceiving the specifics that make up this arena. This way, we can say that the focus on the functionings expands our way of understanding the world of which we are part, requiring of us a moral conduct that is more attentive to the variables that comprise the different functional systems of the ecosystem. Thus, this approach points to a remodeling of the concept of environmental justice as currently endorsed by many political entities that, under the banner of sustainability and a green economy, remain wedded to a traditional way of thinking that prevents our moral community from being expanded beyond the prevailing anthropocentric paradigm. Neither does the functionings approach call for a transcendental view that tries to justify the way by which the moral community deserves to be expanded. On the contrary, it seeks to provide reasons allied with the production of a constant awareness of our time, and is willing to rebuild and expand the moral community throughout the history we are helping to construct.

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[1] On utilitarism in its most traditional versions, see the following works: Bentham, J., *A Fragment on Government*, org. J. H. Burns and H. L. A. Hart, Londons, Athline Press, 1977; Bentham, J., *An Introduction to the Principles of Morals and Legislation*, org. J. H. BURNS and H. L. A. HART, Londons, Athlone Press, 1970; Mill, J. S., *Utilitarianism*, Cambridge, Cambridge University Press, 1989; Hare, R. M., *Essays in Ethical Theory*, Oxford, Clarendon Press, 1989; Smart, J.J.C. and Williams, B., *Utilitarianism, for and against*, Cambridge, 1973; Sen, A. and Williams, B. (orgs.), *Utilitarianism and Beyond*, Cambridge, Cambridge University Press, 1982.

[2] The references to Kant in this text are based on analyses of his two great books on moral philosophy: *Grundlegung zur Metaphysik der Sitten [Groundwork of the*

Methaphysics of Morals](from which we highlight its second section) and *Kritik der praktischen Vernunft [Critique of Practical Reason]*.

[3] For this theme and works by the authors mentioned here, see E. Tugenhat, *Vorlesungen über Ethik [Lectures on Ethics]*; J. Habermas, *Moral Consciousness and Communicative Action;* T. M. Scanlon, *What We Owe to Each Other*; D. Gauthier, *Practical Reasoning: The Structure and Foundations of Prudential and Moral Arguments and Their Exemplification in Discourse*; and John Rawls, *A Theory of Justice; Political Liberalism* and *Justice as Fairness: A Restatement*.

[4] As, for example, Bentham and Mill.

[5] For an analysis of the main criticisms to utilitarianism and its variations, we recommend consulting the work by Smart, J.J.C. and Williams, B.: *Utilitarianism, for and against*, Cambridge, 1973.

[6] The reader might be asking him or herself if the functional interpretation of the many existing entities would open the gates of morality to each and every type of entity that can be functionally defined. The discussion about which functional entities might or might not be objects of our moral consideration will be resumed in the third chapter of this book.

[7] Here, I am thinking of an ontology that includes, for example, the possibility of transcendent beings and immaterial entities. I do not intend to analyze this hypothesis because, although quite widespread in the lay world, it is incompatible with the philosophical perspective that I have adopted since the beginning of this book—namely, a materialistic, non-dualist ontology.

[8] Reference to the film by Almodóvar, "Todo sobre mi madre [All about my mother]."

[9] The patient was followed at the 'Martagão Gesteira' Institute for Childcare and Pediatrics (Instituto de Puericultura e Pediatria) of the Federal University of Rio de Janeiro (Universidade Federal do Rio de Janeiro - UFRJ). His report was contained in an educational video created by the Nucleus of Educational Technology for Healthcare (Núcleo de Tecnologia Educacional para a Saúde - NUTES) in 1990.

[10] Noteworthy observation: it is almost a general practice in Brazil for "*Severinos*" to be called "*Bill*." I do not know the reason. The relevance of this note is to put at ease those who might be worried, and rightly so, with the possible identification of the individual.

[11] "*Treatment*" here refers to the promotion of basic functionings in the field of health.

[12] A genetic syndrome in which tissues such as the brain deteriorate due to the lack of an enzyme.

[13] Another genetic syndrome. It occurs only in boys and is associated with persistent mental disability.

[14] For example, ethnicity or habitat.

[15] In this analysis we will use the term transgender people and, when it is necessary to specify, the terms transgender man and transgender woman will be used. According to Almeida (2010, p.120), this usage of the terminology is due to a respect for the way transgender people want to be recognized: "as women and men, even though such categories may be preceded by the adjective transgender".

[16] The ideal of critical and intellectual development is observed in all educational guidelines. We take as an example what is determined by the Brazilian Educational Law "Lei de Diretrizes e Bases da Educação Brasileira" 9394/96, Art. 35/II.

[17] Val Plumwood develops a philosophical analysis on hierarchical dualisms and double androcentric oppression. See Feminism and the Mastery of Nature. New York: Routledge, 1993.

[18] Extremely contaminated with antibiotics and hormones.

[19] The concept of surplus value is found in the historical dialectic materialistic theory of Karl Marx. The extension of surplus value to the non-remunerated services of women, such as housework, double working day, the maternal role and care related to the elderly, the children and the husband, is a contribution of contemporary feminist theories. See MARX, Karl. *O Capital: Crítica da economia política*, 1867. 3 ed. Vol I. São Paulo: Nova Cultural, 1988.

[20] This issue would involve studying human nature, which is not our object of study at this time.

[21] As a consequence of that, some of them are declared to be legally "incapable."

[22] I call the basic level what in Brazil begins in early childhood education and extends through all of elementary and middle school, also reaching high school, which preceeds the undergraduate level of higher education. This all adds up to at least 12 years of basic education.

[23] I want to give considerable thanks to Professor Maria Clara Dias for this invitation. It is an honor to be able to discuss her approach and be a part of this book.

[24] Minamata is a city located on the west coast of Kyushu, in Japan.

[25] The Chisso Corporation first opened a factory of chemical products in Minamata in 1908. Initially, producing only fertilizers, the factory continued to expand and began production of acetylene, acetaldehyde, acetic acid, vinyl chloride and octanal, among others. The factory in Minamata became the most advanced factory in all of Japan, both before and after World War II.

[26] In 1954 in Minamata, an island located in the southwest of Japan, residents began observing a strange behavior among the animals, especially the cats. Documents attest that cats began to have a kind of convulsion that, many times, ended in the suicide of the cats who jumped in the direction of the ocean. Initially, this was called the "dancing cat disease." There is a record that the disease appeared in the first human in 1956. From then on, the illness became known as "Minamata Disease." The characteristics observed in humans were very similar to those observed in the cats: convulsions, loss and lack of control of motor functions. Two years after the first record of the illness in humans, studies concluded that the disease was related to the poisoning of the waters with mercury and other heavy metals, contaminating fish and shellfish which were the main source of food for the local population.

[27] Mercury and its compounds can cause serious effects on health, including neurological, renal and pulmonary damage, in addition to toxicity for fetal development. The toxicology of this pollutant was extensively reviewed by the Brazilian professor Fausto Antonio de Azevedo in his book "Toxicology of Mercury". His work is a national point of reference, the importance of which tends to increase with the demand for

knowledge about the toxicological and environmental effects of the pollutant in the decision making and definition of policies in Environmental Health.

[28] Curiously, the parties most interested and willing to finance the start of the project for the reduction of mercury emissions are the governments of Switzerland (host country of the Minamata Convention and primary center of the United Nations in Europe), Japan (the country where the disaster of Minamata occurred) and Norway (which also recently faced a very serious environmental political problem as a result of pollutants derived from a British company). Additionally, substantial aid is expected from the Global Environment Facility, especially to provide incentives for developing countries.

[29] Recent studies show that the storage and disposal of amalgam waste also can contribute to mercury contamination at dental offices of those who work in them, of the environment and, of course, of patients who have fillings made of that material. See: Agency for Toxic Substances And Disease Registry (ATSDR). Toxicological profile for mercury, U.S. Department of Health and Human Services, Public Health Service, U.S. Government Printing Office, USA, 1999. Available at: <http://www.atsdr.cdc.gov/toxprofiles/tp46.pdf> [Accessed in May, 2013].

[30] Neurological syndrome caused by severe symptoms of mercury poisoning. Symptoms include sensory disorders in the hands and feet, damage to vision and hearing, weakness and, in extreme cases, paralysis and death.

[31] In 2001, a study indicated that about two million people may have been affected by the consumption of contaminated fish. In 2001, the government of Japan itself recognized that 2,955 people suffered from the Minamata disease.

[32] *Anthropos*, a Greek term that means man in the sense of being human, man as a species. *Centrum*, centricum, from the Latin, means the center, the central, the centered. (Dicionário de Filosofia – Dictionary of Philosophy)

[33] “The time bomb of global warming could be disassembled with the use of artificial cells. For this to happen, it would be necessary to develop a genome that programmed bacteria to absorb carbon dioxide, which is responsible for the warming. One possibility is that these bacteria may be programmed to break down the carbon dioxide molecules, returning them to the environment in the form of carbon and oxygen. Researchers explain that synthetic enzymes – proteins that speed up chemical reactions – could allow reactions to be accelerated, such as with the degradation of oil spills in the ocean.” (MELO, 2013)