

Citizenship, Ability, and Contribution

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Abstract

People with significant cognitive disabilities and others who advocate on their behalf routinely state their claims in terms of enabling people to claim their full citizenship. Informed by the results of a study by one of the authors, we draw attention to some of these claims, and discuss what a just society ought to do so that members with significant cognitive disabilities see themselves – and are seen by others – as full, and therefore equal, citizens. Several political philosophers have sought to develop disability-inclusive accounts of justice, using three strategies: (1) defend a permissive understanding of who is owed justice by rejecting contribution to social cooperation as a necessary condition; (2) defend a permissive understanding of what counts as contribution; and (3) argue that some demands of justice are owed to all, while others are owed only to cooperators. We defend a version of the second strategy, arguing that the relevant notion of contribution requires that it be something the agent chooses to do because they know it to be valued by someone else, and we argue that the third strategy also has a role to play.

1. Introduction

There are at least two questions that concern justice and citizenship: (i) what are fair rules when it comes to the acquisition of legal citizenship in a particular political society (especially those that govern acquiring citizenship in ways other than through birth)?; (ii) what should a just society do to achieve a state of affairs where all its members can see themselves and each other as full – and therefore equal – citizens in a moral sense? This paper does not address the first question, important though it is. Further, in addressing the second question, we do not take a stand on how to decide who is and is not a member of society, and so our arguments are, in the first instance, applicable to individuals who are unquestionably members of society, however membership is defined. Our focus is

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on people with significant cognitive disabilities¹ and we take it as a given that any society will have many members with such disabilities. This raises the question of what a just society ought to do so that these members see themselves – and are seen by others – as full and equal citizens.

People with significant cognitive disabilities and others who advocate on their behalf routinely state their claims in terms of *social inclusion* and enabling people to *claim their full citizenship*.² Informed by the results of a study by one of the authors, we draw attention to some of these claims here, because they offer insight into how these philosophical concepts are talked about and serve as goals ‘on the ground’ in people’s lives (Klausen, 2017). They serve to elaborate and lend support by providing evidence for the position we will defend.

Theories of justice have not always been helpful for thinking about equal citizenship for people with significant cognitive disabilities. Rawls’s theory is neither the first nor the only one that (arguably) fails to include people with significant cognitive disabilities, but his approach to disability provides a useful background because much work done afterwards is largely in response to his. The ‘central organizing idea’ of Rawls’s theory of justice as fairness is ‘the idea of social cooperation’, which ‘includes the idea of fair terms of cooperation’ (Rawls, 2001, p. 6). These terms ‘specify an idea of reciprocity or mutuality: all who do their part [...] are to benefit’ (Rawls, 2001, p. 6). Although society and citizens are surely more than this, *for the purpose of building his theory* Rawls takes citizens to be people who make productive contributions to a fair system – in the form of labour market participation or reproductive labour (Rawls, 2001, p. 162). He ‘assume[s] that everyone has physical needs and psychological capacities within the normal range’ because his view

¹ Although we acknowledge that the phrase ‘a disabled person’ has merit – for example, because it can be read as emphasizing the avoidably disabling features of inaccessible environments – we will use person-first language in this paper because, in our experience, it is the language that is most commonly used for self-identification. We use the term ‘cognitive disability’ as a best general approximation that covers intersecting categories like developmental and intellectual disability.

² For instance, this can be found in the international document from the United Nations Convention on The Rights of Persons with Disabilities in the language of ‘full and effective participation’ in society (UN, 2006). In Canada, the idea of ‘full citizenship’ has been used by advocates and self-advocates (see The Council for Canadians with Disabilities, 2013), as well as forming the theme of a conference (see UBC, 2015), and was adopted within the statements of provincial governments (see The Province of Manitoba, 2001, and Alberta Human Services, 2017).

is that '[t]he first problem of justice concerns the relations among those who in the everyday course of things are full and active participants in society [...] citizens engaged in social cooperation' (Rawls, 1999, pp. 83–84). Although he notes that people 'within the normal range' include people who experience illness or injury that *temporarily* prevents them from productive contribution, he 'put[s] aside the more extreme cases of persons with such grave disabilities that they can never be normal contributing members of social cooperation' (Rawls, 2001, p. 170). He notes that '[a]t some point [...] we must see whether justice as fairness can be extended to provide guidelines for these cases; and if not, whether it must be rejected rather than supplemented by some other conception' (Rawls, 2001, p. 176, n. 59).

In an important critique, Kittay points to Rawls's focus on reciprocity – and, more specifically, to his characterization of *the citizen* as someone who contributes to society as part of the workforce or through reproductive labour – as the source of his failure to include people with significant disabilities. She argues that this problem will persist 'as long as the bounds of justice are drawn within reciprocal relations among free and equal persons' (Kittay, 1999, pp. 76–77). This objection is central in the work of both those who find it convincing and those who think it can be answered.³

Cook usefully distinguishes between two strategies employed by political philosophers, namely 'permissive inclusion' and 'differential inclusion' (Cook, 2015, p. 102),⁴ to explain why people with significant cognitive disabilities are owed justice – and what justice they are owed – so that they can be included as equal citizens within theories of justice. Because there are two versions of permissive inclusion, we see three strategies:

1. defend a permissive understanding of *who is owed justice* by rejecting contribution as a necessary condition, so that the same justice is

³ For example, Richardson (2006, p. 419) suggests that 'the ideal of reciprocity [...] might be thought to pose the biggest obstacle to applying the social-contract device to issues pertaining to the severely disabled (those who are not capable of being cooperative members of society)' and Hartley (2009b, p. 22, with a quotation from Rawls 1996, p. 20) writes: '[Rawls] considers the concern of justice to be the establishment of fair terms of cooperation among citizens [...]. Being able to cooperate and participate in this project gives one a claim to justice. Some persons with disabilities may not be able to contribute to this project in the ways that "normal and fully cooperating members can"'.

⁴ Cook is writing about contractarian accounts, but the distinction seems also useful for some non-contractarian accounts.

- owed to all members of society – cooperators and non-cooperators alike;
2. defend a permissive understanding of what counts as contribution to social cooperation, so that more members of society are owed justice in virtue of being cooperators; and
 3. distinguish *different demands of justice*, holding that some are owed only to cooperators while others are owed to all members of society, regardless of contribution.

Our primary goal in this paper is to defend a position in the debate between the first and second strategy – in other words, to defend a position about permissive inclusion. We argue that the first strategy is too permissive in a way that runs the risk of society doing too little to create and improve opportunities for people with significant cognitive disabilities to contribute, which, as the above-mentioned study indicates, is essential for their being treated as full citizens. After arguing that some existing versions of the second strategy suffer from the same problem, we defend an alternative version of the second strategy (that is, a permissive account of contribution) arguing that the relevant notion of *contribution* requires that it be something that *the agent chooses to do because they know it to be valued by someone else*.

After this primary goal, our discussion continues by considering two possible objections, the first of which is that our view would be insufficiently inclusive. We respond by arguing for a presumption of contributory capacity and by explaining how the third strategy (which distinguishes different demands of justice) also has a role to play. The second possible objection that we identify and respond to is that by focusing too closely on details of cases to do with certain disabilities, we are losing sight of the full picture, i.e., that by concentrating on adapting a concept like *citizenship* to accommodate an ‘edge case’ we risk making it no longer suited to the important philosophical work it ought to be doing. We consider other examples to show that our argument is not mere special pleading. We conclude by considering the question of what follows if we are right.

To begin our discussion, we now turn to the study mentioned above. We investigate what those advocating ‘full citizenship’, ‘genuine inclusion’, and the like, are actually seeking. We briefly look at some literature on the matter. But more importantly, we consider relevant results of a recent qualitative study involving a group of professionals – called ‘independent facilitators’ – whose work with people with significant cognitive disabilities provides them with good knowledge of their clients’ goals. This study helps us to get at what people really have in mind in ways that are, for reasons we explain, unavailable in their explicit statements

on the matter. This helps us to isolate and provide evidence for an alternative notion of *contribution*.

2. What we Talk About When we Talk About Citizenship

The notion of citizenship we are advancing is, we suggest, supported by evidence found in a recent qualitative study (Klausen, 2017). The aim of this study was to direct philosophical attention to the increasing use of rhetoric concerned with ‘claiming full citizenship’ by people with disabilities and their advocates. For a variety of reasons, such claims are usually advanced without the precise articulation that a philosopher might wish for of what exactly the claimants (or those advocating on their behalf) understand this to mean. In saying this we are not suggesting that the matter has received no philosophical attention. For instance, in what has been called the ‘fullest systematic, philosophical’ statement of the aspirations of the Independent Living movement the primary goal is described as each person ‘having a good self-image [...] feeling oneself to be a responsible, productive, fully contributing and participating, a fully accepted and respected member of society’ (McCrary, 2017, p. 383). There are echoes of the broadly Rawlsian language found in our introductory remarks, but this goal as stated by the Independent Living movement is not formulated in the language of citizenship. So, for instance, it is not clear whether we have one goal here or two. One aim of the study was to gain increased clarity into what claims of full citizenship, made by those with significant disabilities and their advocates, are meant to involve.

Of course, the standard first step when one seeks to clarify what someone means by a particular utterance is to ask them. To understand why this study took the shape it did, it is useful to consider some of the reasons why this approach is not so easily implemented in this case. First, it is worth considering which groups are nowadays most likely in need of making a demand for full citizenship. Given the increased prominence and influence of social models of disability and the increased acceptance of the need for society to accommodate differences, there seems to be less need for people with physical disabilities to advocate for their *right* to full citizenship, however far from adequate actual accommodations might be. The people most likely to be judged ‘unable to contribute’ are people with significant *cognitive* disabilities.

‘Just ask them’ is a difficult strategy to implement with this population for a variety of reasons. For one thing, their significant

cognitive challenges mean that their ability to formulate abstract philosophical demands cannot be taken for granted. Moreover, the skills for articulating such demands are generally underdeveloped because, for many, life will have provided few opportunities to develop them.

But there are also practical problems that make conducting such research challenging. Generally speaking, people with significant cognitive disabilities constitute a highly vulnerable population. Many of them, and those who provide care and support to them, have prior experience with researchers that has left them with good reason to suspect that researchers are likely to treat them as mere objects of study rather than as people. So, willingness to participate cannot be presumed. Moreover, there are many different modes of communication employed by people with significant cognitive disabilities. Particular researchers are unlikely to be competent with any (and certainly not more than a few) of these, which would lead to a need to involve interpreters or communication facilitators in the research process, with attendant methodological complications.

A more practicable approach, which seems to preserve the benefit of hearing directly from those on whose behalf the claim to citizenship is being made, is to read the writings of the disabled people themselves, especially as a growing body of memoirs is available. Such memoirs in fact offer evidence for some of the claims we will make below. For example, personal blogs written by autistic authors often mention their desire to be socially accepted, as well as to have the chance to do things that benefit those around them.⁵ However, there is reason to regard this as akin to the case of those with physical disabilities touched on previously. Writing a memoir manifests certain abilities that many with cognitive disabilities do not have, so it is an open question whether the lived experience of memoir writers is sufficiently similar to that of those for whom writing a memoir is not on the cards.

If it is necessary to move to third-person sources of information about what some people want, an obvious suggestion is to ask ‘the people who know them best’, namely the people who spend the most time with them and provide them with daily care and support, often family members. We do not want to suggest that there is no value in this approach and have included family members and caregivers in other studies related to the goals and desires of people with significant cognitive disabilities. But it is worth noting that this approach raises its own epistemological challenges. For instance, it can be difficult for

⁵ For example, see Sinclair (2017), Wyatt (2018), or Crosman (2019).

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people to distinguish what a vulnerable person they care about *wants* from what seems *obviously good for them* or *what they should want*. Moreover, due to the complexity of these relationships, vulnerable people are often disinclined to tell those closest to them what they want, preferring to say what they think the people they are closest to want to hear. Knowing someone best might not entail knowing them thoroughly.

The choice of interviewees for the study in question was made with an eye to ameliorating these complications. The study investigated the opinions and practice of a group of professionals in Ontario, Canada – called there ‘independent facilitators’, though called other things in other jurisdictions – who explicitly espouse the goal of full citizenship and work with adults with significant cognitive disabilities to ‘help them claim it’. In particular, they provide support which people need in order to make important choices about their own lives and which enables them to lead more satisfying, self-directed lives in their communities. Independent Facilitation (IF) supports people so they can make choices of their own. Pains are taken to get to know the person and to help them clarify for themselves what is important to them. This involves paying particular attention to disentangling the person’s goals and desires from those of family members or others who care for them, and trying to mitigate the facilitator’s own influence on opinions and decisions.

The study involved semi-structured interviews with eleven Independent Facilitators carried out between June and September 2016. Results were coded and themes extracted using both deductive and inductive analysis: deductive to gather responses containing philosophical concepts identified in the literature beforehand (e.g., voting); and inductive to capture themes that emerged from the data. Since claiming full citizenship is one of the avowed goals of IF,⁶ the Independent Facilitators were asked what they thought was involved in such claims. But the interview subjects were not a group of professional philosophers, so other questions were posed that approached the topic less directly and asked them, for example, to share their stories of supporting people whom they considered to

⁶ Independent Facilitation (IF) is often described as a natural adjunct to Individualized Funding. Giving a person control over (at least a portion of) their support dollars is an important step in allowing people to live a self-directed life. However, people with little experience making important decisions and little awareness of the range of options available are unlikely to know how to go about making those choices and benefit from support to do so.

be at different stages of citizenship. These questions yielded answers that revealed what participants regarded as important about the relationships, supports, and activities related to citizenship goals they helped a person to cultivate. The point of such questions was to see whether there might be a more substantial, if unarticulated, notion of citizenship behind their work.

It is worth making some of the assumptions and limitations behind these methodological choices explicit. As the investigators knew when designing the study, and as the Facilitators made clear during the interviews, one goal of Independent Facilitation is helping people to articulate what is important to them. In doing so, an important part of the work is not only for the Facilitator to help disentangling the person's desires from the desires of those closest to them, but also for the Facilitator to stay well attuned to the need to avoid imposing their own values and desires in the process. The interview questions asked the Facilitators to distinguish what matters to those they work for from what matters to themselves, and in our analysis we presume some competence in the ability to make this distinction. Moreover, the number of those with significant cognitive disabilities who have had the opportunity to work with Independent Facilitators is small and it is a service that people opt into, so how representative the views of the Facilitators are is open to doubt.

While this is not the place to present the study's results in detail,⁷ it is clear that both Independent Facilitators and those they support (at least, as their views are reported by the Facilitators) generally attach fairly specific content to the expected vocabulary of demands for 'equality', 'involvement', and 'respect'. In brief, in the work of Independent Facilitation to be a full citizen means being both perceived and treated *as an equal*, where equality involves *being regarded as having something worthwhile to contribute* and being able to make those contributions *in the right kinds of relationships*, namely '*reciprocal*' relationships that all people involved value for the right reasons. These notions of right relationships and making a genuine contribution were spoken of as inextricably linked and as of fundamental importance: when participants were asked about one, the other was consistently mentioned unprompted. Let's consider more closely these notions and how they are seen to be interrelated.

The Independent Facilitators frequently characterized the relationships that matter to citizenship by clarifying what they are not: these relationships are not 'token membership' or inclusion that is based on notions of charity or pity, but relationships that are

⁷ See Klausen (2017).

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'natural' (i.e., unpaid). When characterizing the relationships in positive terms, the word 'genuine' was frequently used, as in 'genuine connection' or 'genuine enjoyment of the person'.

Perhaps more useful, though, is the reaction to questions probing whether Independent Facilitators viewed their work in terms of helping people achieve greater independence.⁸ Nearly all of the Facilitators explicitly rejected this framing because it was interpreted as inappropriately framing the non-disabled as independent. They elaborated on their answer in various ways by indicating that the fundamental feature of the lives of those who are 'genuinely included' in society is their interdependence with others and the contributions they make to one another. About half of the respondents began their answer to the question that focused on independence by mentioning the role of IF in helping people recognize and develop their own gifts so that they can contribute their skills and talents to others. Those who are genuinely included in society will have an opportunity to develop a range of natural connections that suit their own conception of the good life, and it is within these connections where opportunities to contribute are found. Societies ought to be mechanisms that receive contributions from all of their members and in return provide opportunities for members to make better lives together than they could apart. Answers to some other questions help to clarify the nature of the contribution the Facilitators and those they work for have in mind.

Though unlikely to express the point in these terms, participants in the study were generally aware that while some people they support have the capacity for contributions of the sort Rawls had in mind (e.g., labour market participation and parenting), others do not. These participants, in their answers, therefore explicitly endorsed a broader notion of contribution. It was often expressed by saying that an individual contributes by using their gifts, talents, and skills, but there was no consistent view about exactly what this amounts to. One respondent suggested that the 'uniqueness of an individual' was sufficient to count as a contribution, but this suggestion was an outlier among the responses. An important part of the work of

⁸ Interview question 5: 'People have different ideas about how people depend on one another in society. There are people who think of some in their community as dependent and in need of support while others are independent, for instance, and often people who think this way also feel that society would be better if the independent provided more support to the dependent. Do you have any general thoughts you could share about dependency and interdependence?'

facilitation is helping people recognize their own gifts and talents, so they know they have *something to offer*, which suggests that a contribution is something an individual *chooses* to provide to others. Hence, being treated as a fellow citizen involves being viewed as having something *valuable* to offer, and it involves *agency*.

When asked about the role of ‘economic involvement’ and its relationship to full citizenship, none of the survey participants said such involvement is a necessary condition of citizenship (and so neither a necessary component of the relevant sort of contribution). Some recognized the automatic respect that comes from having paid employment, despite inaccessibility and discrimination in many workplaces. But for most the question of economic involvement quickly turned to the *opportunity to make spending decisions*, i.e., the value of having some degree of agency in how available support funding is spent, including spending it in ways that create additional opportunities for meaningful activities and relationships. While not made explicit in the interview responses, it seems natural to link some agency over spending of support dollars with having ‘something valuable to contribute’ in some transactional relationships, and so as an opportunity in itself to participate in meaningful relationships in a society such as ours, even if these transactional relationships are not the deepest and most valuable ones in most people’s lives.

For Independent Facilitators and those who employ them, full citizenship involves the following key notions, which are viewed as conceptually inextricable: full citizens exist in a context of interdependency with other citizens; they have important, ‘genuine’ relationships with others; they recognize that they have valuable contributions to make, can confidently make such contributions, and are aware that their contribution is valued. That these contributions are not restricted to paid employment or reproductive labour is clear, but ‘what counts’ is not well specified beyond being something the citizen chooses to offer and something that is recognized as valuable by the one(s) receiving it.

3. The First Strategy: Not Requiring Contribution

As previously noted, we distinguish three strategies (whose aim is to include people with significant cognitive disabilities as full citizens within theories of justice) that explain why these people are owed justice (and what justice they are owed): (1) a permissive understanding of *who is owed justice*, (2) a permissive understanding of *what counts as contribution*, and (3) distinguishing *different demands of*

justice for cooperators and non-cooperators. The aim of the present section is to explain the first strategy and to explain why we think it is too permissive in a way that runs a risk of society doing too little to create and improve opportunities for people with significant cognitive disabilities to contribute, which is essential for their being treated as full citizens.

Let us examine a few examples of the first strategy. Brighthouse suggests that Rawls's *normal and fully cooperating* assumption 'is only a simplifying assumption, and, by implication, not one that is crucial to the character of his theory' (Brighthouse, 2001, p. 544). By arguing that what matters instead is having 'the two moral powers',⁹ Brighthouse hopes to include all physically disabled people but laments the limits of his argument since 'many of the severely mentally disabled will fail to have the relevant cognitive capacities to the requisite minimum degree' (Brighthouse, 2001, p. 559). A way to address this problem, at least to some extent, can be found in Cook who argues that '[b]y understanding the required capacities for agreement more permissively, namely those capacities necessary only for *sharing goals*, we can include those who have not developed the full range of capacities required for rational, voluntary, independent agreement' (2015, p. 107, emphasis added).¹⁰

Richardson advocates 'loosening the commitment to reciprocity' (Richardson, 2006, p. 426). On such a view all *but not only* productive contributors should benefit from social cooperation, and so 'social justice applies to those of all levels of disability' (Richardson, 2006, p. 426). Freeman seems to agree with the last point when he writes that '[w]e have no option, no choice in the matter whether we are members of some society [...]. So the question of why or whether we should cooperate as members of society is irrelevant to justice on Rawls' and other moral contract views' (Freeman, 2018, pp. 183–184). In other words, all members of society are owed justice simply as members of society.

⁹ The two moral powers are a sense of justice and a capacity for a conception of the good.

¹⁰ Cook distinguishes between *sharing goals* and *sharing intentions*. 'Sharing plans and sharing intentions demands a lot from us intellectually. [...] many people with various cognitive or developmental disabilities will be unable to share plans and intentions. [...] sharing goals is common between a much wider range of people than merely those competent to share intentions and make explicit agreements. [...] those with developmental disabilities will share goals of various kinds with able adults.' (Cook 2015, p. 106)

Nussbaum pushes back against efforts that try to absolve Rawls's view of failing to include people with disabilities of the sort that Rawls thinks are incompatible with contribution.¹¹ Nussbaum's own view sees contribution and productivity as important but denies them to be 'a main end of social life' (Nussbaum, 2006, p. 160), holding that reciprocity (hence productivity) ought not to be at the centre of a theory of justice. She instead follows Grotius's view that '[w]herever human beings are alive, there are already Circumstances of Justice between them, just because they are human and sociable' (Nussbaum, 2006, p. 38).

Nussbaum offers the most sophisticated version of the first strategy. We agree that if Rawls is read as requiring contribution in the form of labour market participation or parenting, then he set the barriers to entry for citizenship too high. Nussbaum's strategy for being disability-inclusive is to argue that justice requires a guarantee of a decent life – a life worthy of human dignity – for every being with dignity, which implies that nothing else (such as contribution) is required for being a full citizen. We believe this sets the bar for entry to full citizenship too low. Our view is that it is important that *some* genuine contribution is required. Dropping reciprocity raises a different problem for people with significant cognitive disabilities – namely, it leaves the theory unable to adequately defend a duty of justice for society to improve the accessibility of opportunities to contribute. Exempting a person from being required or expected to contribute in virtue of a disability risks reinforcing the all-too-common tendency to assume that a person with a significant cognitive disability lacks the capacity to contribute and so excusing the failure to create circumstances within which they could.

Nussbaum might reply by noting that although her theory does not require contributions in order for someone to be considered a full and equal citizen, her picture of a decent life – which is given by her list of

¹¹ Nussbaum emphasizes two strands in Rawls: a Kantian strand – found in the idea of the person as both rational and reasonable – that sees justice being owed to those who have the two moral powers; and a Humean strand – found in ideas about the circumstances of justice – that sees justice as being owed only to productive contributors. Nussbaum (2006, pp. 1–2) opposes efforts to downplay the Humean strand and argues that a new theory is required in order to drop reciprocity, writing that: 'The problem of doing justice to people with physical and mental impairments [...] requires a new way of thinking about who the citizen is and a new analysis of the purpose of social cooperation (one not focused on mutual advantage)'. (For a discussion of how Rawls's view is based on reciprocity rather than mutual advantage, see Hartley, 2014.)

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ten ‘central capabilities’ – does give society duties of justice that include doing what it can to secure people’s opportunities for labour market participation (Capability 10b) and reproductive labour (Capabilities 2, 3, 5, and 7) (Nussbaum, 2006, pp. 76–78). On Nussbaum’s view, society owes every citizen material and social conditions that enable them to have all the benefits of citizenship, including being contributing participants insofar as this is possible.

But Nussbaum reaches this conclusion in the wrong way. Her argument is that if I am someone who would otherwise be excluded from participation, then *for my benefit* – a benefit to which I am entitled because of my dignity – society must change things so that I can contribute, because this will be better *for me*. I am treated primarily as a *recipient* of a benefit, *rather than someone who is able to provide benefits to others*. We suggest instead that an account of human dignity must include an acknowledgement of our *productivity*. An essential part of our humanity is the capacity and drive to create value through our actions – sometimes in material ways, sometimes in social ways. Let us turn, then, to the second strategy, which offers a permissive account of contribution, in search of a better way to have disability inclusion in a theory of justice.

4. The Second Strategy: a Permissive Account of Contribution

The second strategy involves broadening what counts as a valuable contribution beyond labour market participation and reproductive labour. Defenders of this strategy include Kittay, Hartley, and Aas.¹²

Kittay argues that ‘we cannot limit our understanding of social co-operation to interactions between independent and fully functioning persons’, and when we ‘reorient our political insights to see the centrality of human relationships to our happiness and well-being’, we will recognize ‘the *social contributions* of dependents – who, even in their neediness, contribute to the ongoing nature of human relationships’ (Kittay, 1999, p. 106, emphasis added). She explains the idea of social contributions in various, arguably incompatible, ways in

¹² Kittay also, in places, suggests a version of the first strategy. For example: ‘I argue against an understanding of society as first and foremost an association of equals – independent equals engaged in reciprocal interactions. Instead, I argue, social organization must be recognized to begin with the fact of human dependency’ (Kittay, 2000, p. 78). Dropping reciprocity appears to be part of Kittay’s proposal to ground citizenship in the need for care.

different places. The above quote suggests that *having a need for care* is a social contribution because it presents others with the opportunity to provide care and thereby to be in a caring relationship, since we benefit not only from receiving care but also from giving it. Elsewhere, Kittay suggests that *being present* is a social contribution, writing that ‘when one is allowed to flourish, no degree of impairment is so great that that person cannot contribute to the well-being of those around her – just by being in the world’ (Kittay, 2000, p. 74).¹³ Two additional notions of social contribution are suggested by the following passage:

Although my daughter can never be ‘productive’ or pay back to society anything of material value, still her contributions are great. Her sweetness radiates and enriches the lives of everyone she touches, those who allow themselves to be touched by her. Without her abundant and exuberant love, the world would be a more dismal place. (Kittay, 2001, pp. 576–577)

We might read from this that a social contribution is *acting intentionally towards another* – by, for example, expressing love – *in ways that might, in effect, help sustain a relationship*. Alternatively, we might infer that a social contribution must be *acting intentionally to sustain a relationship*, which involves a slightly more demanding condition about the *goal* and not just the *effect* of the actions.

Hartley also defends social contributions by developing the idea of ‘capacity for engagement’ (2009b, p. 28), which she describes as ‘the ability to recognize others as responsive, animate beings and the ability to communicate one’s recognition of this to them’ (2009a, pp. 148–149). She argues that those with such capacity for engagement ‘are able to develop and participate in certain kinds of relationships [...] such as mutually supportive companionate relationships and relationships based on mutual trust’ (2009b, pp. 28–29). Such relationships are themselves ‘direct contributions to society’ because they ‘help make relationships based on respect possible’ (2009b, pp. 28–29), and a society founded on reciprocity must be ‘based on *mutual respect*’ (2009b, p. 18). This seems similar to *acting intentionally to sustain a relationship*, and yet, in the most recent statement of this view, Hartley (2020) emphasizes that *mere communication of any sort* is a sufficient contribution, which aligns her more with the first or

¹³ She writes about her daughter Sesha that all those ‘who have been in touch with her [...] have learned something important about the variety of human possibility’ (Kittay, 2000, p. 65).

second (or perhaps the third) notion of social contribution drawn from Kittay above.¹⁴

Finally, Aas argues that people's *compliance* with the norms and rules of their society's basic social institutions is a contribution because those institutions depend on such compliance, and other people's ability to contribute economically depends, in turn, on those institutions. He writes that when someone simply follows the laws of their society, by doing so they 'contribute, knowingly or unknowingly, intentionally or unintentionally, to a [...] productive enterprise [namely, the basic social institutions] [...] which transforms contributions of individual compliance into valuable opportunities [for economic contributions]' (2019, pp. 74-75). On this basis, Aas includes within the scope of justice people who comply but do not economically contribute.¹⁵ He also argues that people who do not have the capacity to comply because of disabilities that prevent them from understanding the rules of their society's institutions, but who 'could have understood and participated in simpler arrangements', should be included within the scope of justice because 'their inability to contribute [through compliance] is [...] a condition that we who can contribute have imposed on them' (2019, p. 86). Aas's arguments about justice do not include 'those who could not contribute [through compliance] under any system' and he leaves it an open question whether or not they would be owed other duties of justice (2019, p. 86, n. 30).

Let us now evaluate these three views, starting with Kittay. We noted four possible interpretations of Kittay. In our view, the first three set the bar too low. If we interpret Kittay's suggestion that we must recognize 'the social contributions of dependents – who, even in their neediness, contribute to the ongoing nature of human relationships' to mean that neediness in itself is a contribution, we have

¹⁴ 'Of course, there are some human beings who do not count as persons on this view and are outside the scope of justice, namely, those who are wholly unable to communicate with others. This includes, for example, those infants with anencephaly and those with such profound cognitive impairments that they are merely responsive to stimuli in the environment such as light or sound. This set of human beings is extraordinarily small.' (Hartley 2020, p. 208)

¹⁵ This includes people who do not economically contribute either because their society's institutions give them few or no opportunities to do so or because of impairments that prevent them from economic contribution under any system. Aas explains that 'how [basic social institutions] are constituted makes a difference to who has it easier, or harder, when they try to produce or otherwise acquire other things' (2019, pp. 72-73).

broadened the notion of ‘contribution’ beyond recognition (Kittay, 1999, p. 106). The insistence that I be recognized as someone *with something valuable to offer* involves an insistence that I offer something more than an opportunity for you to look after my needs. You may, indeed, get something valuable from looking after me, but such benefits are not the ones that come from a *reciprocal* relationship, as it is not something that I have *given* to you in the relevant sense. For the same reasons, the second interpretation, which counts being present as a contribution, is not the right kind of contribution.

The third and fourth interpretations both involve intentional acts towards others as a necessary condition for social contribution. The difference is that in the third it is only required that the action is of a sort that generally sustains relationships, while the fourth requires that it be performed in order to sustain the relationship. Our view is that the third is again *too* permissive. It is true that the capacity to perform intentional acts like expressing love is more demanding than ‘simply being yourself’, but it leaves out what seems to us a crucial component, namely the recognition of oneself offering something of value. We therefore find the fourth interpretation, which involves a person doing an action *because* they know that it is valued by someone else, much closer to the right combination of contribution, relationship, and recognition. Hartley’s view is in its essential respects similar to the first three interpretations of Kittay, so we see it as problematic for the same reasons.

A significant virtue of Aas’s view is his attention to how a person’s opportunities to contribute (or lack thereof) is largely a product of collective choices about basic social institutions. The correct response is to change social institutions so that the opportunities to contribute of currently excluded people are improved, but Aas unfortunately focuses on arguing that currently excluded people should be considered equivalent to contributors, which leads to the already discussed problem of exempting would-be contributors from contribution. Further, his account of contribution holds compliance to be a contribution regardless of whether or not the agent knows that it is valued by others or intends to produce that value, which we have already argued is too permissive. But even if Aas had required that the person chooses to comply with social institutions precisely because they know that this is valued by others, the view is problematic. It is difficult to imagine that the person would see themselves as having *contributed* something to society. While one can imagine rules that require more, following the rules is generally a matter of refraining from throwing grit in the gears of social arrangements, and not a positive, productive contribution. Willingness to follow the rules is presumed and failure to do so

generally warrants criticism, but it is not *valued* in the relevant way. It is not the right sort of contribution.

We have argued in favour of the fourth interpretation of Kittay and against other less demanding versions of the second strategy, because our view gives a central theoretical position to reciprocity. Before turning to discussion of two objections it is worth saying a bit more about what we mean by reciprocity.

We understand reciprocity to be not simply *mutual advantage*, where each participant's motivation for cooperation is only their own benefit, nor simply what we might call *mutual altruism*, where the motivation is only to benefit each other. It is also not simply the combination of these two, because cooperation is not merely a tool.¹⁶ As it happens, Rawls said some useful things about this notion, though notably not in the discussions that led him to exclude some people with disabilities from the class of fully contributing citizens. Reciprocity involves 'the desire to engage in fair cooperation as such', for '[r]easonable persons [...] desire for its own sake a social world in which they, as free and equal, can cooperate with others on terms all can accept' (Rawls, 1996, pp. 50–51). In a reciprocal relationship it is not only the benefits of cooperation (for both of us) that I desire, *but I also desire that we be in a particular sort of cooperative relationship*, one that is fitting in light of how we view each other as beings that are, among other things, both productive and social.¹⁷ We suggest that something very much like this account of reciprocity is the one people with significant cognitive disabilities have in mind when they and their advocates demand their full citizenship. It is also the right sort of contribution for political philosophers to have in mind when thinking about equal citizenship, in order to avoid the risk of failing to encourage society to do enough to create and improve opportunities for people with significant cognitive disabilities to contribute.

5. An Objection about Inclusiveness and the Role of the Third Strategy

Arguing that the bar for what counts as a contribution should not be set too low raises the possibility that some people will not clear it, and

¹⁶ Similar ideas are developed by Hartley (2014).

¹⁷ Unfortunately, Rawls does not make this notion of reciprocity as central to his theory as we feel it should be. We are suggesting that he was on to something important in these passages about reciprocity and would have done well to pursue them.

not be owed reciprocity-based justice. Some will regard this as giving up on the project of describing a sufficiently inclusive account of citizenship. We offer a two-part response.

First, we contend that it is ethically imperative to *presume competence*, i.e., always proceed on the assumption that a person, with proper supports, has the capacity to contribute. In theory this presumption is defeasible, but in practice – given the sorry history of others underestimating the capacities of people with disabilities, and the substantial moral harm involved in wrongly judging someone incapable – people should be very hesitant to deem it defeated. This suggests an obligation for society to provide material and social conditions that facilitate contributions by people with significant cognitive disabilities.

Before moving on to the second part of our response, let us pause to consider the relationship between (1) what properties of a person ground their claims to be a citizen and (2) how someone who has these properties ought to be treated.¹⁸ For us these two things arise at a stage conceptually prior to citizenship, as we will now explain. The work of facilitators, as they describe it, largely has to do with allowing people to ‘become aware of their gifts’, and so to recognize the contributions they make and to enable them to build the relationships that allow them to see what they have to offer as valuable. Often the people facilitators work with do not have experience articulating their goals or thinking of themselves as agents. Our contention is that we should presume competence and invest in supports to allow people to develop into citizens. This is akin, of course, to the investments we make in schools and vaccines and the like to allow children to develop into citizens, but tailored to the needs of the person in question. This means that the ‘properties’ question and the ‘just treatment’ question become entwined: people with significant cognitive disabilities – as with all of us – only become citizens because someone has been treating them in the relevant, appropriate way.

We turn now to the second part of our response to the objection about inclusiveness. Even though our primary goal in this paper is to defend a version of the second strategy, our view is that the third strategy is also needed. The third strategy distinguishes *different demands of justice*, holding that some are owed only to cooperators while others are owed to all members of society. Let us examine it now.

The third strategy argues that duties of justice owed between fellow contributors are only *part of the story* about justice. Stark (2009), for instance, argues that [w]e should read Rawls’s theory as offering

¹⁸ We thank an anonymous reviewer for this journal for this question.

principles suitable for, and justifiable to, those capable of social cooperation, and as leaving room for principles, yet to be specified, suitable for and justifiable to, those not so capable' (Stark, 2009, p. 92). The latter principles 'govern relations of dependency if we want to ensure that everyone's needs are met in a way that preserves their self-respect' (Stark, 2009, p. 91). In a similar vein, Lowry offers a 'multi-level' view of justice that includes a second set of principles that are focused on basic needs and are independent of contribution (Lowry, 2018). Lowry's view is that this second set of principles requires a second version of the circumstances of justice and a second version of what Rawls calls 'the political relationship' (Rawls, 2001, p. 40), which focus on issues of justice that arise from how collective power is used to securely meet the basic needs of all members of society.

With that in mind, our second reply to the objection about inclusiveness is that, without endorsing all the details of Stark's and Lowry's arguments, we take on board the view that there is more to justice than reciprocity-based justice, so that inclusion within the realm of justice in general does not hinge on being recognized as a contributor. In addition to society's duty to facilitate contributions, there is, of course, also a duty to meet basic needs; and it is appropriate for the grounds of that latter duty to be unconditional.

6. Is This Special Pleading?

We will now address what strikes us as a likely concern. The concern, bluntly, is that our argument amounts to special pleading.

One might see our approach as privileging claims made by a particular group of people. Our argument gives great weight to what some people with significant cognitive disabilities and some of their supporters, who have as their explicit goal enabling people to 'claim their citizenship', say they have in mind. At the same time, we are drawing conclusions about important concepts (citizenship, justice, and so on) that have very broad application. Generally speaking, neither the people with significant cognitive disabilities nor independent facilitators are experts in political philosophy. While their goals are often expressed using the term 'citizenship', this does not imply that a coherent notion of citizenship operates in the background. Moreover, just as people sometimes 'demand their rights' when it is by no means clear that rights rather than desires are in question, if 'citizenship' is a politically potent but not a strictly apt word for their demands, this would by no means be the first case

of people using emotionally resonant words inaccurately or incautiously to advance important political goals.¹⁹ So why should political philosophers assign much weight to the claims of this group? One might wonder whether what we have taken from the work that we have relied upon could fit the desires of this group without having anything to do with considerations of citizenship and justice in particular.²⁰

In reply, we suggest that the notion of contribution we develop on the basis of our investigation of what people ask for when they ask for ‘full citizenship’ is actually a commonly assumed feature of the concept. We offer what one might call an *argument by Baader-Meinhof effect*: once the notions of contribution and relationship we have developed are isolated, one starts to recognize these notions regularly in arguments about citizenship and inclusion, and often these arguments have nothing directly to do with people with disabilities. For present purposes, we hope it will suffice to give a couple of examples.

First, consider the familiar feminist critique of social structures that, though ostensibly designed to protect or venerate women, in fact undermine their ability to function as full citizens. Critiques of ‘the pedestal’ go a long way back, but the basic idea is nicely captured in the late US Supreme Court Justice Ruth Bader Ginsburg’s frequently cited remark that ‘[t]he pedestal upon which women have been placed has all too often, upon closer inspection, been revealed as a cage’.²¹ Ginsburg’s remark occurs in a judgment in which she is quite explicitly addressing the question of the full citizenship of

¹⁹ To give a more striking example: setting aside the question of whether or not Henry Kissinger was, in fact, a war criminal, many in the early 1970s (or, indeed, at NYU in 2018) were happy to call him that. Their main goal in doing so is to raise awareness about, for instance, the horrific nature of the American bombing of Cambodia in the early 1970s. Not all who have used this description for Henry Kissinger have done so after careful attention to the laws of war.

²⁰ Of course, there is deliberate overstatement involved in stating the worry with such bluster. Some authors with explicitly philosophical intentions have come to similar conclusions, if not quite in the vocabulary of citizenship, as when Loraine McCrary summarizes the goals of the Independent Living movement, cited in Section 4. Moreover, by now it should be clear to everyone that caution is needed to ensure that one does not fail, nor even be open to the charge of failing, to take the testimony of disabled people about their lived experience sufficiently seriously.

²¹ This quote is from Ginsburg’s Supreme Court brief for *Reed vs. Reed*, 404 U.S. 71 (1971).

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women, and argues that by confining contributions of a class of people to the ‘appropriate’ sphere (in the case of American women, to the private rather than the public realm) an injustice is committed. Women have an ‘interest in treatment by the law as full human personalities’ and as ‘equal public citizens’.²² The objection is to a society that seeks to ‘spare’ women from the burden of having to contribute to the public realm. The specific legal obstacles in question perpetuated attitudes that women were too delicate or sensitive to handle demanding workloads, though the laws were often rationalized as ensuring that women could devote their efforts to the ‘more important’ work expected of them in the private realm.

Clearly there is a parallel with the case of people with disabilities here, in that both cases involve an objection to social arrangements that do not allow these groups the opportunity to make a contribution. The objection is that this amounts to denying these groups full status in society. There are important differences too, of course, notably the fact that ‘traditional womanhood’ did ‘offer’ women the opportunity to make contributions that everyone recognized as important. But while we will not argue the point in detail here, we think these differences do not undermine the essential similarity between these two cases. The pedestal case highlights the importance of matters such as having an appropriate say in the sort of contribution one will make, and we suggest that a fuller consideration of both cases would reveal that this is similarly important for people with disabilities. The essential point remains that the *opportunity to contribute* plays a central role in inclusion and citizenship.

Next, consider discussions on the advantages of a Universal Basic Income (UBI), the possibility of which received a great deal of renewed attention in light of the Covid-19 pandemic.²³ The arguments by advocates of UBI suggest they regard mere economic contribution as far too restrictive an understanding of what matters to people. For instance, Phillipe Van Parijs argues that because under UBI workers will only take jobs that are suitably attractive, UBI reflects ‘a concern to give every person the possibility of taking up gainful employment in which she can find recognition and accomplishment’ (Van Parijs, 2000). Insofar as this suggests that a transactional arrangement whereby one is only ‘recognized’ with money

²² There is a useful discussion of Ginsburg’s *Reed vs. Reed* judgment in Gibson (2018). The discussion here borrows from Gibson’s second chapter.

²³ For example, see ‘Now is the time for universal income!’, a statement made by the Canadian Mental Health Association (CMHA) in September 2020.

going into one's bank account each week is somehow deficient, Van Parijs seems to be stressing the sort of reciprocity described in Section 4. In this kind of reciprocity the prospect of being part of a productive relationship is required and merely being mutually advantageous is insufficient.

Of course, the usual objection to UBI is that it assigns benefits even to those 'who spend their mornings bickering with their partner, surf off Malibu in the afternoon, and smoke pot all night' (Van Parijs, 2000). However, Van Parijs suggests that the concern about widespread free riding is misplaced since '[e]verything we know suggests that nearly all people seek to make some contribution. And many of us believe that it would be positively awful to try to turn all socially useful contributions into waged employment' (Van Parijs, 2000). One virtue of UBI is precisely that it allows for valuable contributions *other than those recognized in the original Rawlsian framework*. We see here, from an author who does not seem to have people with cognitive disabilities in mind, an insistence on the importance to people of the opportunity to contribute, and an indication that the relevant sorts of contributions (the ones that really count) must be broader than Rawls might have recognized. Moreover, as the previous quotation suggests, the right sort of recognition by others of the contribution one is making is also, in his view, part of what matters.

As noted, once one starts looking one is able to recognize such claims and assumptions in a variety of arguments. It would therefore not be hard to multiply the list of discussions of citizenship and justice that link to the ideas we have raised about contribution and its importance. People desire to contribute and to have some control over the contributions they are in a position to make. Having an opportunity to exercise one's ability to make a meaningful contribution and to have that contribution recognized are important aspects of being treated as a full and equal citizen. And, as the quotations of Van Parijs suggest, not all meaningful contributions are, nor could or ought to be, remunerative.

7. What if we Are Right?

We suggested above that if we are right it follows, roughly speaking, that there should be an in principle defeasible but in practice not-to-be-regarded-as-defeated presumption that people have a capacity to make contributions, and that this gives rise to a social obligation to create conditions under which people with significant cognitive disabilities can make such contributions. This is, we think, a

fundamental part of the claim that we must enable people to ‘claim their full citizenship’. Full consideration of this claim and its ramifications deserves a separate discussion, but we will conclude this paper by highlighting what seem to us key points.

What sort of social obligation is this? We take it to be akin to the social obligation to provide children with education, or any citizen with healthcare, insofar as those services are intended to provide them with opportunities, including opportunities to contribute, that do not depend entirely on family wealth or social class. Like all such obligations, in conditions of scarce resources there will be controversy over how to balance meeting these obligations against others, but just as it is not a morally defensible view to maintain that we do not need to educate children in remote parts of the country because it costs a lot to do so, it is not morally defensible to refuse to invest in creating the conditions that allow people with significant cognitive disabilities to develop their capacities and make contributions because it is complicated and expensive.

Some practical implications of this are fairly straightforward. If the ability to engage in reciprocal relationships of the sort described above are important, then policies and practices (with respect to housing, for instance) that result in social isolation are obviously problematic. But if we couple the lesson that often the supports needed by those with disabilities are not different in kind from supports others rely on but take for granted – they have become invisible because relied on by so many – we can draw lessons about where resources should be invested. Consider, for instance, the investments we make in allowing children to develop suitable communication skills, and the important role those skills play in people’s ability to learn what they value, communicate what they want, and to make contributions. For those who do not speak with their voices, for instance, language classes in the standard school system will be inadequate, but the ability to communicate is for those no less important. This suggests that investments in alternative and augmented forms of communication are important.

Discussions like this one sometimes elicit a skeptical response from those who suspect advocates of social justice assume that resources for making the world better are unlimited. We conclude with the observation that this impression is less likely if one really takes on board the fundamental lesson we are suggesting. The contributions people with significant cognitive disabilities make are not called *contributions* only out of courtesy. The resources society invests in developing capacities for people to contribute pay off, even if the pay-off is not always economic.

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