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Cognitive Disability and Its Challenge to Moral Philosophy
METAPHILOSOPHY SERIES IN PHILOSOPHY

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Cognitive Disability and Its Challenge to Moral Philosophy

Edited by

Eva Feder Kittay and Licia Carlson
In Memoriam

Heather Ann McElory
February 3, 1971–May 19, 2009

Her life was a shining example of what is possible.
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INTRODUCTION:
RETHINKING PHILOSOPHICAL PREJUDICES IN LIGHT OF COGNITIVE DISABILITY

LICIA CARLSON AND EVA FEDER KITTAY

Why Philosophy and Cognitive Disability?

Philosophers conceive of the mark of humanity as the ability to reason.1 It is to humans that we extend the mantles of equality, dignity, justice, responsibility, and moral fellowship. Reason, in philosophical accounts, is generally taken to be the ground for human dignity, hence the special accord and moral status we attribute to humans. But people with cognitive disability are individuals who have, at best, a diminished capacity for rational deliberation. Yet they are human. How should we think about these individuals? In what way do they present challenges to some of philosophy’s most cherished conceptions of personhood, agency, responsibility, equality, citizenship, the scope of justice, and human connection?

In posing philosophical questions about cognitive disability, philosophers focus on numerous ethical problems. Some address the moral status of individuals with cognitive disabilities, and ask: Are those with cognitive disabilities due the same respect and justice due to those who have no significant cognitive impairments? Are the grounds of our moral obligation different when a human being may lack certain cognitive faculties that are often understood as the basis for moral personhood? Are those with significant cognitive impairment moral persons? What sort

1 A note on terminology: We employ the terms “mental retardation” and “cognitive disability,” recognizing that both are problematic. Despite the fact that the (former) American Association for Mental Retardation has now changed its name to the American Association for Intellectual and Developmental Disabilities and many in the advocacy and professional communities have rejected the term, we speak of “the mentally retarded,” as the term picks out a specific group commonly discussed in philosophical literature. We’ve chosen the term “cognitive disability,” under which we include conditions like autism, dementia, Alzheimer’s, and mental retardation, rather than “intellectual disability.” The former is broader. Also, some forms of cognitive disability do not imply diminished intellectual capacity (e.g., autism.)
of moral responsibility is it appropriate to expect of people with differing degrees and sorts of cognitive disabilities? Are the distinctions between mild and severe impairment morally relevant? Are the people with cognitive disabilities, especially those labeled as “mentally retarded,” distinct, morally speaking, from nonhuman animals?

Other philosophers take our moral obligations to those with cognitive disabilities as a given and consider the challenges that they pose to existing moral theories and concepts. If we take these obligations as a given, then people with cognitive disabilities offer an opportunity to explore the nature and limits of concepts like justice, rights, respect, care, and responsibility. We also are faced with the difficult question of how we realize these conceptions in practice given the challenges presented by those with cognitive disabilities.

Animal rights theorists have paid special attention to those with cognitive disabilities. Some have averred that we need to parse our moral universe so that “normal” human and nonhuman beings who possess the capacity for reason constitute one category, while nonhuman animals and intellectually subpar humans together constitute another. If these philosophers are right, then people who are lacking the capacity (or possess it but not to the threshold level) for rational deliberation cannot be our equals—they are nonpersons. Thus they should be denied the entitlements of a just society, a society composed of persons. Their moral claims are subordinated to those of persons. And they do not possess dignity and the moral status that we associate with persons. How definitive are these arguments, and what consequences follow? The controversy indicates the extent to which the moral status of individuals with cognitive disabilities remains unsettled, as does a consensus about the approach to their care and treatment.

These issues and debates were the subject of a conference, held at Stony Brook University in September 2008 that, for the first time brought together philosophers and ethicists in other disciplines as well as physicians and medical historians from across North America, Europe, and Australia. The conference focused on three groups who all face the challenges of functioning in a society that requires proficiency in certain cognitive abilities: those with intellectual and developmental disabilities (IDD) (formerly identified as “mental retardation”), autism, and Alzheimer’s disease. There are overlapping philosophical and practical concerns raised by these three conditions, as we will see below. These conditions were chosen to constrain the discussion, but many issues are pertinent to other cognitive disabilities, such as brain injury, other forms of senile dementia, and other developmental disabilities.

As people with cognitive disabilities appear to present the few exceptions to the standard philosophical conception of the person, their outlier status

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2 Podcasts of the paper presentations and the Q&A sessions are available at www.stonybrook.edu/cdconference.
may justify the marginal importance of the questions they raise for philosophy. It is true that there are very few who have severe cases of IDD and that the entire group of people with IDD constitutes only about 2.5 percent of the general population. But the “normal” adults who will become cognitively disabled with old age are numerous, with up to 20 percent of adults older than seventy-five suffering from Alzheimer’s and other forms of dementia. Moreover, there has been (for no known reason) a vast increase in the number of children diagnosed with autism, a condition that involves cognitive, perceptual, and behavioral anomalies, setting these children and adults apart from the norm. Furthermore, medical advances have permitted people who would otherwise die of brain injury to survive, albeit with diminished cognitive abilities, and have kept people living longer, increasing the likelihood of them developing dementia. Finally, while new technologies have enabled younger and younger premature infants to survive, a number of whom will experience significant cognitive impairments, earlier and more reliable prenatal testing and pre-implantation embryo selection have presented prospective parents with the dilemma of whether or not to bring such children into the world.

When we consider the aged adults we may become or need to care for, the decisions we or our children may have to make as prospective parents, the possibility that we, our children, friends, or others close to us may have a child diagnosed with autism, and that at any moment, through illness or accident, we or those we love may develop a significant cognitive impairment, we see that cognitive disability has a reach into the lives of many and can touch the lives of all. This realization should compel us to view cognitive disability as a feature of the human condition that philosophers should take seriously. Once we do so, a number of fundamental philosophical presumptions and received views are up for reconsideration, including the centrality of rational thought to our conception of humanity and moral standing, the putative universality of philosophical discourse, and the scope and nature of moral equality.

Historical Overview

Although the subject of cognitive disability remains somewhat marginal in philosophical discourse, there are historical precedents to a discussion of the topic. While people with cognitive disabilities rarely appear in historical philosophical texts, when they are mentioned they are referenced only to be discounted as irrelevant, or as exceptions that prove the rule. For example, as early as Plato’s Republic (460c) we find references to the abandonment of “defective infants.” When John Locke, in his Two Treatises on Government, a foundational work in modern political philosophy, explains that what makes one a “Free Man” is maturity,

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3 See Hebert et al. 1995 and www.dementiacarefoundation.org
he notes that “[i]f through defects that may happen out of the ordinary course of Nature, any one comes not to such a degree of Reason, wherein he might be supposed incapable to know the Law... he is never capable of being a Free Man, he is never let loose to the disposal of his own Will... And so Lunaticks and Ideots are never set free from the Government of their Parents” (1824, 2: §60). Not being “Free Men”, those “Ideots” can never be citizens and cannot be due justice, only charity. For justice, says Locke, gives “every man a Title to the product of his honest Industry,” while charity gives “every man a Title to so much out of another’s Plenty, as will keep him from extreme want, where he has no means to subsist otherwise” (1: §42). The view that those with cognitive impairments are not subject to the same basic rights and protections may also be inferred in Kant’s philosophy. Kant is generally taken to be the locus situ of the intimate connection between personhood, dignity, and autonomy. He writes: “Autonomy then is the basis of the dignity of human and of every rational nature” (1959, 59). It is thought that only persons can make autonomous decisions and ought not to be treated paternalistically. But this view of autonomy suggests that those with cognitive disability have no autonomy that needs protection (see Agich 1995; Kittay 2006; O’Neill 1984; Wikler 1979).

In the wake of the increased attention paid to it in a political and social context, due to the emerging parental and self-advocacy movements and the public discourse surrounding deinstitutionalization in the 1960s and 1970s, cognitive disability emerged as an object of philosophical inquiry and ethical discourse in its own right. Philosophers in different traditions began examining the nature and moral status of individuals with cognitive disabilities, and addressing both theoretical and practical questions. Here we find ethicists and bioethicists grappling with questions of justice, respect, personhood, and autonomy, and with concerns regarding the treatment of persons with cognitive disabilities in a variety of philosophical contexts (Kopelman and Moskop 1984; Khuse and Singer 1985). In the theological realm, some argued against the dehumanization and diminished status accorded to persons with cognitive disabilities, and noted important resonances between these philosophical arguments and concrete practices like Jean Vanier’s development of the L’Arche communities (Veatch 1986; Hauerwas 1986; Reinders 2008).

At the same time, however, we find a number of places where the “cognitively disabled” are addressed indirectly, as a tactical move in an unrelated philosophical argument. Most notable is the increased presence of cognitive disability on the philosophical stage as part of certain arguments addressing the moral status of nonhuman animals. A clear example of this can be found in arguments against speciesism, and in animal rights literature that utilizes the “severely cognitively impaired” as a group to bolster the case for this other marginalized group (Singer 1995; Regan and Singer 1989; Tooley 1984; Rachels 1990). Peter Singer and Jeff
INTRODUCTION

McMahan, both of whom are represented in this collection, each argue that to grant human beings higher moral status than nonhuman animals with what they call “comparable” intellectual ability is arbitrary and unjustified (Singer 1995; McMahan 1996, 2003).

More recently there has been a significant shift in the philosophical discourse surrounding cognitive disability. A number of philosophers have begun to problematize the very category “cognitive disability” and have raised critical questions regarding the nature, status, and treatment of persons with disabilities, both in political contexts and in academic and philosophical scholarship. In part, this shift in the mode of questioning and scope of analysis is symptomatic of broader changes on the disability landscape over the past few decades. The burgeoning disability rights movement, the Americans with Disabilities Act, and the explosion of work in the interdisciplinary field of disability studies have all provided a very different stage upon which philosophers can speak about disability.

New philosophical questions have emerged against the backdrop of “the social model of disability,” whereby people with disabilities have argued that it is not so much the person who needs fixing but the environment that needs adaptation if people with disabilities are to lead flourishing lives. Some philosophers and disability scholars question whether cognitive disability, or its various instantiations such as the category of “mental retardation,” is a self-evident and unproblematic “natural kind” (Hacking 1999; Carlson forthcoming), and they problematize the very notion of “normalcy” (see Amundson 2000; Carlson 2003; Davis 1997; Kittay 2006). Rather than taking an ahistorical approach to the topic, many are exploring the sociopolitical foundations of the oppression of persons with cognitive disabilities, both now and in the past (Stubblefield 2007; Carlson 2001 and forthcoming). Finally, philosophers are unmasking the discriminatory and erroneous assumptions that underlie certain philosophical treatments of disability. This growing body of work has emerged from multiple philosophical sites, including ethics and political philosophy (Kittay 1999; Reinders 2000; Nussbaum 2006; MacIntyre 1999; Mahowald 1998; Byrne 2000; Francis and Silvers 2000; Silvers, 1995, 1996), feminist philosophy (Wendell 1989; Kittay 1999; Wong 2002; Silvers 1999; Tremain 2006), philosophy of

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4 This is but a crude gloss on the social model. Rich discussion of this model can be found in numerous places: in disability memoirs, in academic texts, in expressions of disability culture in the media and the arts, in grassroots political movements such as the independent living movement and the self-advocacy movement, and in its legal embodiment, the Americans with Disabilities Act. See Oliver 1990; Wendell 1996, 1989; Lane 1995; Morris 1991; Davis 1997; Thomson 1997; Conners, Browne, and Stern 1985; Silvers 1998. This list is hardly complete, as there are far too many discussions of the social model to include in this list. But note that most of the work is about physical disability. More needs to be said about the social model and cognitive disability. See Tremain 2002; Carlson forthcoming; Reinders 2008.
science, bioethics (Kittay 1999; Asch and Parens 2000; Goering 2003; Reinders 2002), and postmodern theory (Tremain 2002, 2005; Davis 2002).

Despite this new critical philosophical orientation, the general issue of disability sometimes overshadows the particularity of cognitive disability within both critical disability theory and traditional moral theory. In contrast, the chapters in this collection give cognitive disability a central place in this changing philosophical and political landscape and reveal the broad range of arguments and issues that have surfaced. Surely physical disability has presented a challenge to many philosophical conceptions. But because philosophy has long taken reason and other aspects of cognition as central to its very project, it is cognitive disability that is “the philosopher’s nightmare” (Carlson forthcoming, chap. 1). Therefore it is this form of disablement that provides the opportunity for a radical set of reflections about philosophy itself.

**Discussion of Themes and the Chapters**

The chapters in this collection begin with a historical overview of the medical approach to intellectual disability and the limitations of that perspective. The rest of the chapters are grouped according to five themes. The first of these deals with *justice*, asking how a theory of justice can accommodate those with cognitive disabilities and what such accommodation requires in terms of political participation. *Care* is the second theme discussed and raises the problem of whether the care and treatment of people with cognitive disabilities is commensurate with their just treatment. We then consider aspects of *agency*, inquiring how we might construe agency in people who do not demonstrate or enact agency in typical ways. The next set of chapters interrogate the *language and representation of cognitive disability*. They ask how the agency and status of the disabled subject come to be defined and understood, and what historical and contextual considerations are relevant. The collection concludes with chapters on the vexing issue of *personhood*, taking up the question of moral status considerations. These chapters grapple with the challenge to the moral personhood of people with disabilities and the challenge to modes of philosophizing in which people with cognitive disabilities are rendered nonpersons.

*Intellectual Disability: The Medical Model and Beyond*

This part of the book contains two essays by physicians who are specialists in intellectual and developmental disabilities, and who articulate the importance of critically revisiting and moving beyond a narrow medical model of cognitive disability. Taken together, these two chapters offer an important backdrop for the philosophical discussions that
follow, as they situate the categories of intellectual and developmental disabilities in both medical and historical contexts. Jeffrey Broesco, a pediatrician and medical historian, lays out a rich historical epidemiology of intellectual disability. Beginning with a question posed by Sargent Shriver in 2002 regarding what progress has been made in addressing intellectual disability, Broesco lays out an intricate account of why there is not a straightforward and easy answer to even the most basic questions regarding the prevalence and causes of intellectual disability. He charts changes in definitions, public health measures, and diagnostic tools, all of which highlight the complex intersection of the political and the social with the medical. While he acknowledges that there have been significant advances on many fronts in the past century, Broesco argues that we must resist appeals to facile explanations that are reductionist in defining intellectual disability and its causes, or that rely on simplistic arguments regarding heredity, intelligence, and IQ.

In his chapter “Developmental Perspective on the Emergence of Moral Personhood,” psychiatrist James Harris provides an overview of definitions, prevalence, and etiology of intellectual disability as an entry point into more specific questions regarding the individual’s moral, cognitive, and emotional development. Whereas Broesco’s chapter demonstrates the insights that can be gained by expanding the medical model to include a public health perspective, Harris’s developmental account of moral personhood in persons with intellectual disabilities illustrates what is lost if we reduce cognitive disability to cognitive impairment, that is, if we take a physiological impairment as definitive of the extent to which capacities and functioning within a society are impeded. If we recognize the significance of neuroplasticity and the bonds that form between infants and parents, Harris argues that even the most severely disabled individuals are capable of important forms of development. He concludes by pointing to some of the ethical questions regarding autonomy and treatment that emerge in a new light once the possibility of moral and emotional development is acknowledged, topics that are taken up by many of the philosophers in subsequent chapters.

**Justice**

Of the many indignities suffered by people with disabilities, the denial of their claims to justice (or claims made on their behalf) has been especially serious and particularly acute for people with cognitive disabilities. Through the Americans with Disabilities Act, people with disabilities have demanded and have been granted legal protections against discrimination in civic and political life. But people with severe cognitive disabilities appear unable to participate in the workplace on a competitive basis and may not be able to exhibit the understanding and judgment needed for political participation. With Locke, many philosophers and lay
people have presumed that while charity is appropriately bestowed on people who cannot function as rational agents in the public domain, these individuals have no claim to just treatment. Were we able to count on each other to be magnanimous to those unlikely to return our favors, worries about justice for the cognitively disabled might be of less concern. But justice entitles us to protections and provisions, and those who have to be at the mercy of another’s charity live precarious lives and are most likely to suffer poverty, neglect, and abuse. This surely has been the history of all whose claims to just treatment have been denied, and people with cognitive disabilities have suffered as much as any, and more than most.

Yet, finding a justification for including people with cognitive disabilities in extant theories of justice is a challenge. To adopt the language of the political philosopher John Rawls, they are frequently unable to share the burdens of social cooperation. If they do not, does this imply that they have no claim on the benefits of social cooperation? If not, are they then to be deprived of any claims to justice, as well as all forms of political participation? Today, for example, people with significant cognitive disabilities do not vote, and there are currently debates about how to deal with elderly persons who may have always have had the right to vote, but whose current dementia now makes it easy to manipulate them when they do go to the polls.

Martha Nussbaum has been a prominent voice among those who have questioned the ability of dominant theories of justice to include people with disabilities. In her important work Frontiers of Justice (2006), Nussbaum, building on previous work of disability theorists, argues that contractarian theories such as those of Rawls (1971, 1992) fail as a conception of justice for animals, people in poor distant lands, and people with disabilities, especially cognitive disabilities. She proposes the capability theory, with an enumeration of ten central capabilities that all governments should guarantee all citizens, including those with cognitive disabilities, as an important corrective to a Rawlsian position. In the chapter she has contributed to this collection, she discusses the various requirements, including access to medical care, education, and so forth, needed to guarantee that people with cognitive disabilities are treated as citizens with equal dignity. But she wants to go beyond the obvious entitlements and insist that in a capability theory justice for people with cognitive disabilities extends to their political participation in voting and jury duty. Either through direct participation or via a guardian each individual with cognitive disabilities, no matter how severe or extensive, should have a vote. She also envisions the possibility of an arrangement whereby people with cognitive disabilities, or a surrogate such as a guardian, can serve on juries, and she argues that such functions are essential to being fully included within society.

Michael Bérubé expresses his strong agreement with Nussbaum, even with respect to the question of surrogacy. But surrogacy, he argues, poses
an important challenge to disability studies because of the disability community’s insistence that there be “nothing about me, without me.” That is, people in the disability community have fought a hard-won battle to be heard and to be heard in their own voice. And yet such a requirement leaves out those who cannot communicate effectively and those who may not be able to cognize effectively. Bérubé’s contribution also reflects on an interchange with Peter Singer (begun at and pursued after the Stony Brook conference) concerning the limitations of people with Down syndrome.

Although Bérubé defends Nussbaum’s capability view, another contributor, Cynthia Stark, raises questions about her solution to the question of justice for people with cognitive disability. In a related paper (Stark 2007), she defends Rawls and argues that there are good reasons for excluding all but the fully functioning, free, and equal parties in choosing the principles of justice in the original position. But this exclusion does not preclude full representation of people with cognitive disabilities at the Constitutional stage; that is, at the stage when citizens establish the framework of laws and protections, and so guarantee the recognition of their claims to justice. In her contribution to this collection, Stark argues that in trying to accommodate the requirements of justice for those left out by the contractual approach, Nussbaum fails to respect the dignity of rational agents adequately. Given that the social contract is the device by which the coercive power of the state is justified, to give up contractarianism is to lose the central means by which the dignity of rational agents is respected in political arrangements.

Sophia Wong also looks for a way to preserve the central insights and the contractual structure of Rawls’s theory of justice. She indicates openings in the theory that allow us to conceive of parties in the original position as representing not only actualized fully functioning individuals but also those with the potential to develop the two moral powers (namely, a sense of justice and an ability to form and revise one’s own conception of the good). Furthermore, she argues that given the history of mistaken (and self-fulfilling) prophecies of physicians regarding the capacities of the disabled, we cannot presume an unalterable moral incompetence on the part of any given human being. If we take seriously this epistemic caution, and if Rawls’s theory embraces all those with the potential to acquire the two moral powers, then society has an obligation to provide what she calls “the enabling conditions” to acquire these moral powers.

**Care**

These enabling conditions require resources devoted to the care of people with disabilities, care that would enable those with cognitive disabilities to develop a flourishing life. As questions of justice are
intimately bound up with questions of equality and resources, and as the distribution of resources and the need to treat people with their due measure of equality are indispensable for good care, we need to ask what arrangements will be both just and support good care. What we see is that questions of justice and care are not necessarily opposed and can be more than complementary. Each can be viewed as foundational for the other. A just society that meets the requirements of each citizen to flourish needs good social technologies of care; a truly caring society must be one in which resources and the fruits of social cooperation are fairly distributed. The authors of the next three chapters engage in different aspects of what good care requires in a society that treats all its citizens with justice.

People with significant cognitive disabilities are often dependent on others for help in caring for themselves and negotiating their way in the world. Those who give care will frequently find that the burdens are substantial. Often, caregiving is carried out by family members at great cost to themselves, financially, medically, and professionally. Paid caregivers are generally poorly paid, and the work lacks high social status. At the same time, caregivers tend to form deep and abiding relationships with people with cognitive disabilities, relationships that give their work and their life a heightened sense of meaning. Such significant relationships indicate one way that people with disabilities enhance their communities in ways that cannot be measured by economic standards.  

How we conceive of care and obligations that fall upon caregivers and the wider society are linked to the quality of life we believe people with cognitive disabilities are capable of having. If we think that the best that can be done is custodial care, or a measure of hedonic well-being, duties may be discharged with relatively minimal effort. But if we believe that even those with very significant cognitive disabilities are capable of a greater degree of agency, one that requires a more meaningful sense of flourishing, then the demands are more rigorous.

Beginning with the presumption that citizens with intellectual and developmental disabilities (IDD) are equal citizens that have the capacity to live a fulfilling life, yet recognizing that good care can be costly, Jonathan Wolff considers what sorts of models of care would at once serve people with IDD and their families well—giving people with IDD maximal autonomy and avoiding excessive demands on the

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5 The health toll on caregivers has recently been brought to the attention of the mainstream media (see LeRoy 2007). For discussion by and about long-term caregivers see Levine 2004. For studies on the effects of long-term care of parents of people with mental retardation see Seltzer and Krauss 1994; Birenbaum 1971; Darling 1979; Krauss and Seltzer 1993; McDonnell 1991. These are important issues which are not discussed in the present collection of chapters but which require a thorough treatment. See Kittay 2001, 1999; Fein 1995; Rimer 1998. For a further discussion of caregivers, see narratives of parents (Kittay 2000, 1999, chaps. 7 and 8; Bérubé 1996; McDonnell 1991.)
family—and still be cost-effective to the state. His recommendations are based on experimental models in the United Kingdom that deploy a strategy of “targeted resource enhancement.” Families and people with IDD are granted cash transfers that are targeted for expenditures on care, habilitation, and education. People with IDD and their families can use the resources in ways that best meet their needs for such goods.

Bruce Jennings and Hilde Lindemann are each concerned with the obligations that fall to the caregivers or guardians to represent appropriately the needs and capacities of those whose cognitive disabilities result from Alzheimer’s disease and other forms of progressive dementia. Lindemann considers a form of care that has not been much discussed in bioethics. She calls this “holding one in personhood,” that is, helping another in the construction and retention of his or her identity. This is an activity that parents engage in with their children, but it is also a form of care required for those with Alzheimer’s. Such holding, notes Lindemann, can be done well, or badly, or clumsily. But even when it is done clumsily, it can perform a service and be a form of caring. Furthermore, we need to recognize that those whose personal identity seems to be slipping away from them can also contribute to holding another in personhood, again, well, badly, or, as dementia progresses, clumsily. Acknowledging this as a contribution that a person with dementia still makes to family and friends allows all involved to construe that life as one that retains meaning.

A person whose life retains meaning is one with “semantic agency,” a form of agency that Jennings thinks is critical to recognize in people with Alzheimer’s disease and other forms of progressive dementia. Such acknowledgment of semantic agency allows caregivers to provide care that goes beyond the meeting of hedonic needs and desires. Jennings launches a critique of a hedonic conception of the quality of life. He believes it is at once limiting and untrue. It blocks an accurate and respectful way to perceive the personhood of people with Alzheimer’s and other forms of progressive dementia. His original conceptions of memorial personhood and semantic agency are not only contributions to the way we think of care for this population, they also complement the discussions of agency and personhood that follow.

Other chapters in the collection address caregiving more obliquely. Eva Kittay talks about the efforts to get others to recognize her cognitively disabled daughter as a person as itself a form of care. Anna Stubblefield demonstrates the appalling lack of care Americans have provided African Americans who have been labeled with cognitive disabilities. Peter Singer questions the cost to parents in providing care to the cognitively disabled. And one may consider the various discussions of surrogacy, trusteeship, and guardianship as presenting different aspects of care.
Agency

The next four chapters hone in on the question of the agency of people with cognitive disabilities. Lindemann already shows not only that those who care for the cognitively disabled discharge obligations to people with cognitive disabilities, but also that people with these disabilities will be involved in a form of moral engagement that holding another in personhood involves. This more active side of moral agency on the part of the cognitively disabled is an aspect explored both by Daniel Wikler and by David Shoemaker. Wilker asks what justifies the paternalism we exert on those who have an attenuated but nonetheless recognizable agency characteristic of those with mild intellectual disabilities. While we may view paternalism in legal and medical matters as consistent with a standard of care for those with limited cognitive capacities, Wikler invites us to reconsider the usual answer, which is that those with mild ID do not fully understand the consequences of their decisions. For this answer only raises more questions. Few of us are fully able to understand the consequences of our actions, and we do not regard another’s superior intelligence as warranting paternalistic behavior toward those of average intelligence. Usually typical intelligence suffices for the degree of understanding we require to function in society as it is currently constructed. Thus, were we to simplify certain institutional arrangements sufficiently to reduce the burden of mild cognitive deficiencies, paternalistic behavior toward those with intellectual disabilities might not be required to protect their interests. This, however, may reduce the efficiency of institutions that are so modified. What are the obligations of a just society, asks Wikler, to accommodate the agency of the intellectually disabled by modifying its institutions? To make such an assessment, we may need to assess “the overall burden of mild and moderate cognitive disability within a comprehensive measure of the global burden of disease,” a question that refers us back to the sort of assessments Brosco attempts in his chapter.

Shoemaker asks why we regard the person with mild cognitive disabilities as a member of our moral community even as we are wary of holding her morally responsible for her actions. He contrasts these sets of intuitions with those that we attach to psychopaths, whom we view as outside the moral community in many respects, even as we hold them responsible for their actions. The investigation brings to light many intriguing relationships between cognition, moral responsibility, and emotional responsivenss, especially empathy. The ability to empathize is a capacity that is unimpaired in many with cognitive disabilities and is dangerously absent in the psychopath, and it appears to be criterion for membership in a moral community, more so even than the ability to understand the consequences of our actions.

Those with mild cognitive disabilities exhibit unquestionable signs of agency, even if they are not fully capable of understanding the con-
sequences of their actions. But those whose impairments are more pronounced are less easily viewed as agents, especially when agency is thought to require the capacity to conceive of one’s own good and to act on it oneself. The second two chapters in this grouping set out to develop conceptions of agency that are not dependent on the autonomous actions conceived and executed by a singular individual, but rather are more social and relational. In making use of the concepts of trusteeship, surrogacy, and guardianship Nussbaum, Jennings, and Wolff implicitly invoke such relational models. These theories, along with the one developed by Anita Silvers and Leslie Francis in their chapter may implicitly call into question what in philosophy has been known as the “internalist theory of mind”—namely, that our terms and our thoughts are individuated by us alone, independent of the social understanding of these terms.

James Nelson takes the “bull by the horns” and argues that we need to move away from a purely internalist conception of mind when thinking about dementia: the way in which we treat people with dementia must reflect that the meaning of concepts and even the beliefs we hold are individuated by facts about the world and social understandings independently of those who hold the beliefs. In adducing the instance of a woman with moderate dementia who is a devout Jehovah’s Witness and who comes down with an illness treatable by a blood transfusion, Nelson asks us to imagine that during the time she developed dementia, the Jehovah’s Witnesses altered their view that blood transfusions violated the biblical prohibition against “eating blood” and reversed the prohibition. Nelson argues that providing the transfusion would not violate her beliefs even though the woman fails to grasp that the prohibition has been ended. This is because her own belief about blood transfusion no longer contains the same content it previously had—not because she has changed, but because the social understanding has altered. If the beliefs we hold are “not in our heads,” and what constitutes the human mind is more than the sum of the cognitive and psychological capacities of our brains, then there is an important sense in which the limitations of cognitive capacities are not as determinative of the meaning we attribute to the words, actions, and beliefs of those with these disabilities. Our minds are underwritten and constituted in part by the social as well as the physical world that is external to us. Some may worry that applying an externalist theory of mind to the concerns of people with cognitive disability may fail to give due consideration to desires, fears, and needs as the individuals themselves experience them.

The chapter by Francis and Silvers is especially interesting to consider in the light of these questions, for they make a case for the idea that for people with serious cognitive impairments the formulation and articulation of such desires and understandings of one’s own good may require the assistance of others, and moreover that such collaboration in
formulating and articulating a conception of the good is continuous with the way we all form our conceptions of the good.

They insist that liberal theories, with their commitment to pluralism regarding conceptions of the good, contain a curious breach of pluralistic thinking. These theories, Rawls's in particular, hold that one of the two moral powers is the power to form and revise a conception of the good. But according to Francis and Silvers, liberalism is less pluralistic when it considers the cognitive processes whereby people form these conceptions. The assumption is that these must be formed and maintained by the individuals themselves. Silvers and Francis make the case for including conceptions of the good that are formulated, validated, and maintained in a collaborative fashion, where a person, because of cognitive impairments, is unable to engage in these processes without the prosthetic-like assistance of another. Whether an externalist conception of the mind is either necessary or useful for this idea of “prosthesis,” the idea presented by Silvers and Francis coheres with that of Nelson, Lindemann, Wolff, Jennings, and others in the volume who argue for a conception of agency such that the formulation and execution of the agentic features of an individual are not all located within the limits of an individual body. The various chapters in the collection help draw a picture of a more collaborative conception of agency, one that is, in reality, appropriate to all, but especially useful to consider when we speak of those with cognitive disabilities.

Speaking About Cognitive Disability

As the chapters on agency reveal, there is a close relationship between the theoretical frameworks within which we conceive of agency, and the ways in which we then articulate conceptions of the good, the necessity for care, and the demands of justice in relation to the individual with cognitive disabilities. Yet underlying these particular philosophical concerns is a deeper metaphilosophical issue that must be addressed: how and why we speak about cognitive disability at all. The chapters in the next group situate our philosophical discussions in a broader context in the following ways: by exposing the historical contingency and permeability of the categories themselves; by examining the ways academic and nonacademic voices can shape how cognitive disabilities are defined and experienced; by considering the presumptions and theoretical commitments that underlie our understanding of these conditions; and finally, by problematizing the positions that we, as philosophers, occupy when speaking about cognitive disability as an object of inquiry.

While this task of contextualizing cognitive disability can be done in broad theoretical terms, the chapters collected here point to the importance of taking up these issues with greater specificity, and focus on two specific conditions: autism and “mental retardation.” Both of these