

A VIRTUE ETHICAL APPROACH TO PUBLIC POLICY

Promoting wellbeing through human capabilities.

By

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For Mum.

*You are the most virtuous person I have ever met. Thanks to you I have someone from
whom to model right action.*

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ABSTRACT

The best way to achieve wellbeing in a society is to tailor our policy settings to human capabilities. To do this, we need to adopt a form of virtue theory and apply a framework to policy problems which targets people's capabilities, bringing them up to a minimum standard of wellbeing.

Public policy should use distributive justice to deploy public goods to bring people up to a threshold of each capability. This is the bare minimum people need to live well. Justice should be balanced between what a government can realistically influence, with limitations to ensure that people's freedoms are maintained without telling them how to live.

The purpose of this is to reduce obstacles to wellbeing, particularly luck around wellbeing. This means that people can focus on their own functionings and moral actions without fear they will get so unlucky in life that they will never live well.

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INTRODUCTION

Everyone wants a good life. Yet so much of life is down to luck. Over the last few years, I have worked for the New Zealand Government, in various agencies, and various roles. It has led me to question how policy was actually directed to help people live better lives. This curiosity was piqued after the 2017 election, when the Prime Minister promised to change how Government works and a renewed focus on wellbeing which began in 2019 with the first Wellbeing Budget.

I wondered what policy production should look like. How do we make sure that we achieve wellbeing and reduce the barriers to a good life for people? After all, the business of government ‘seems necessarily confined to the removal of obstacles’, so how do you do it?¹ How can you get rid of bad luck and how do you provide people with the bare minimum to achieve wellbeing? Then I suddenly had a thesis idea. It rapidly turned into this – *A virtue ethical approach to public policy: Promoting wellbeing through human capabilities.*

This thesis should convince you that the best way to promote wellbeing is to take a virtue ethical approach to policy by promoting capabilities. This reduces the influence of bad luck on human flourishing in a just manner. People can then focus on the aspects of life which allow a life to flourish because they have the base level of what is required for human dignity, those things are the capabilities.² The whole premise of this thesis is then built on the idea that a government needs to hold a conception of wellbeing and to help people reduce the obstacles to a good life.

There are, however, other conceptions of virtue theory which can be applied to public policy. This thesis uses the Aristotelian virtue ethical approach to right action, wellbeing, and public policy. This is instead of a broader application of virtue theory. As a result it aims only to show that this conception is a workable model. I accept that there are likely other workable versions of virtue theory. This thesis aims to show that this approach, which uses the capabilities, is a workable model rather than considering and playing off all options against each other.

This thesis is split into nine chapters, each asking a question to develop our understanding of wellbeing and how policy can better achieve it. It is rooted in virtue theory and centres around circumstances and luck as the biggest barriers to the good life. The first three chapters look at individual ethics, show what individual wellbeing is, and look at some of the issues surrounding

¹ Thomas Hill Green. *T.H. Green: Lectures on the principles of political obligation, and other writings*. Edited by Paul Harris, & John Morrow. (Cambridge: Cambridge University Press, 1986): 29.

² Martha C. Nussbaum. *Creating Capabilities: The Human Development Approach*. (Cambridge: Harvard University Press, 2011): 30.

individual ethical theory. The last six chapters look at how an individual action theory can be used to guide public policy in order to reduce bad luck so that people can focus on living a good life without needing to focus on life's needs. This thesis uses Martha Nussbaum's capabilities approach and virtue theory to explain what wellbeing is and how to achieve it.

The right action leads to the good life

The first question – **how do you find the right action?** This opens the thesis with a look at virtue theory's guide to the right action. It comprises of breaking down the primary *v-rule* which says 'an action is right if it is what the virtuous agent would characteristically (i.e. acting in character) do in the circumstances', into two parts; character and circumstances.³ We want to promote goods in life that we would want even if they had no benefit, such as altruism and friendship, and so we act characteristically to promote virtue: the good things in life.⁴ This chapter then begins our discourse on luck. It looks at circumstances and how they change the way we act and require us to moderate our character and the virtue we deploy to get the right act.

The second question – **who is the virtuous person?** As part of our guide to right action we are asked to model ourselves on the virtuous person, but we need to ask who they are. This probes into what eudaimonia is and why it is the 'highest prudential good'.⁵ It discusses that you need to achieve the right actions over a lifetime, as well as enjoy it. Eudaimonia, therefore, has two parts, a virtue part and an enjoyment part and since pleasure is a virtue the two are interrelated. The chapter also looks at stoicism's conception of eudaimonia, which does not need enjoyment as a means to show that pleasure and enjoyment are important. This sets the scene for further discussion of the role of luck in wellbeing.

The third question – **what are moral dilemmas?** Moving from right action and virtuous people we turn to moral dilemmas and the occasions where life does not go so well. Discussing irresolvable dilemmas and tragedies, we look at some of the issues with the right action. For example, sometimes there is no clear right option and, in some cases, that right option is bad. To show the relationship between irresolvable dilemmas, tragedies, and luck we turn to the example of Sophie's Choice to illustrate some of the problems. This sets us up to see how policy settings can impact a life.

³ Rosalind Hursthouse. *On Virtue Ethics*. (Oxford: Oxford University Press, 2010): 29.

⁴ Aristotle. *Nicomachean Ethics*. Edited by Roger Crisp. (Cambridge: Cambridge University Press, 2014): 8; 1096b 10.

⁵ Neera K. Badhwar. *Well-Being: Happiness in a worthwhile life*. (New York: Oxford University Press, 2014) 4.

These three questions lead us towards the idea that through bad luck we may be drawn away from wellbeing, and even through persistent right actions, we may never achieve wellbeing. This sad reality sets us up to look to governments, and the goal of public policy to reduce those obstacles and stresses on people to help them live a good life.

A virtuous approach to wellbeing

The fourth question – **what makes a life go well?** This whole chapter is dedicated to the substantive aspects of wellbeing. The substantive aspects are those goods related to wellbeing that we need to live a life before we can work on character. We drill down a bit more into the good life and see what eudaimonia and contentedness mean for people. This is where we start to look at Martha Nussbaum's capabilities approach. This sets out the objective things we need in life for it to go well which we cannot necessarily control. We then look at how these capabilities work with virtue and how we upskill ourselves in the virtues to promote good in the world, including the capabilities for ourselves and others. If people have the basic capabilities, they can use their functionings to promote virtue and live better lives: these are the 'beings and doings' of life – granting people the ability to reap the rewards of the capabilities.⁶

The fifth question – **how can we make lives go better?** We then turn from the capabilities and look at the nature of policy development in democratic governments. The fact that governments are of the people and by the people gives them the ability to use the common resources for the benefit of their people. Rawls' view that public goods are 'indivisible and public in nature' only applies to what I term "asset goods"; we also have governments providing "access goods".⁷ These public goods should be used to return an investment for the citizens to bring them up to a dignified standard of living. All of this has to be moderated by justice, the civic virtue.

The sixth question – **how can we make policy using virtue theory?** We take our lessons from studying the capabilities, public goods, and justice to see how we can make lives better. This means finding a threshold for each capability and ensuring that each capability meets its threshold. This gives us a welfare baseline; all capabilities have met their thresholds. Public goods are deployed to bring people up to those thresholds, using justice and moderating between what the government can influence and what its limitations are.

⁶ Nussbaum. *Creating Capabilities*. 25.

⁷ John Rawls. *A Theory of Justice*. (Cambridge: Harvard University Press, 1971): 266.

The seventh question – **what is an example of policy made virtuously?** A contemporary example of public policy that affected the world during the research and drafting of this thesis is the COVID-19 pandemic. This chapter looks at the moral permissibility of a nationwide lockdown and how it promoted capabilities and balanced those capabilities with the deployment of public goods. It uses the policy methodology developed in the sixth chapter to analyse why this decision was good and some policy pitfalls it had for people.

The eighth question – **why is it virtuous to focus on actions?** This pits virtue theory against act utilitarianism. The biggest difference is that virtue theory, as an agent-centred theory, will accept certain actions regardless of what the outcomes are. The problem is that sometimes the outcomes are so demonstrably bad that they will reduce wellbeing. The dialogue between these two theories is not so much an objection but rather aims to show where agent-centred theories add value to the lives of people, as opposed to getting bogged down in consequences which can disrespect the needs of the individuals.

Finally, the ninth question – **can we justify a perfectionist society?** Simply, yes, we can, because without knowing what the good life is like, how can we direct policy? The asymmetrical objection to perfectionist theories, of which virtue theory is one, says that it is not possible to mandate virtuous lifestyles for people; however, it fails to realise that virtue theory aims to give people the *chance* to live well. Luck comes back to show that what we are trying to do is give people the opportunity and ‘the notion of freedom to choose is thus built into the notion of capability’.⁸ So, the limitation principle of the methodology helps to stop government overreach into mandating how people live.

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As you journey through this thesis, I aim to convince you that the best way to deal with unlucky lives is to promote people’s capabilities. Some people end up living terrible lives through no fault of their own. I want to convince you that virtue theory has the most ethical approach to acknowledging people’s needs through the capabilities and that using a virtue ethical approach to public policy we can help more people flourish.

Luck weaves its way through our lives and is often out of our control. The best approach to public policy is virtue ethics. This means that governments should help reduce those obstacles to

⁸ Nussbaum. *Creating Capabilities*. 25.

the good life and help us get the best return on our investment in public goods by helping people to reach the life of eudaimonia.

HOW DO YOU FIND THE RIGHT ACTION?

CHAPTER I

Virtue theory has central tenets known as the *v-rules*, which help us find out what the right action to do is. The primary *v-rule* is: ⁹

An action is right if it is what a virtuous agent would characteristically (i.e. acting in character) do in the circumstance.

We are guided to find an action by using this maxim. The chapter is split into two parts. Character and circumstances. These are important parts of the puzzle to work out the right action. The virtuous agent is then the person who enjoys an entire life lived well.¹⁰ A life lived well is one where you do the right actions over a lifetime. We will look at the virtuous person and how they do that in the next chapter. This chapter focuses on how the right action is achieved.

The *v-rules* are statements that break down the four parts highlighted in the quote above.¹¹ The **right action** is the outcome from the use of **character** in the right **circumstances** by the **virtuous agent**. Firstly, we take a look at what character is and what the virtues are. Secondly, we look at the circumstances which affect our decisions and how circumstances and character work together to lead us to an action.

Before we unpack that statement from Hursthouse, the whole point of virtue theory is to live a good life – not just some good parts of life but a good life as a whole. Aristotle calls this *Eudaimonia*, whole lived well and enjoyed.¹² Right actions over a lifetime lead to eudaimonia, a life of wellbeing. This is considered the ‘highest prudential good’ because we do the right actions, not only because they are right in the circumstances but also because they collectively lead to eudaimonia over a lifetime.¹³ Eudaimonia is a ‘certain kind of activity of the soul’¹⁴ and the whole point of living.

We act virtuously not only because of the benefits of virtues but also for our lives as a whole. Aristotle notes:¹⁵

Honour, pleasure, intellect and every virtue we do indeed choose for themselves (since we would choose each of them even if they had no good effects), but we choose them also for the sake of happiness.

⁹ Hursthouse. 29.

¹⁰ Aristotle. *Nicomachean Ethics*. 30; 1106b 21 – 24.

¹¹ Hursthouse. 28-31.

¹² Badhwar. 5.

¹³ *ibid.* 4.

¹⁴ Aristotle. *Nicomachean Ethics*. 20; 1102a 5.

¹⁵ *ibid.* 11; 1097b 2 – 4.

Each of those things we would not only want because of what they give us, but we would also want because they contribute to our life as a whole.

Staying in character is virtuous

When you turn up to Disneyland Mickey Mouse is there to greet you. Minnie pops along to say hello and thousands of cast members turn up in character with one purpose – to make sure you *have a magical day*. Virtue theory is almost the same. It requires you to take on character traits to act like the virtuous person. Those in the cast at Disneyland take on the character traits of Mickey Mouse, or whomever they are on that day, and act like that character. The character we act like is the virtuous person and their character traits are virtues.

Character is the mental quality exhibited by an individual and shown through virtues.¹⁶ Virtues are on a spectrum; each has a vice of deficiency and excess. We employ the virtue of intellect as ‘virtue is a state involving rational choice consisting in a mean relative to us and determined by reason’, this is called *phronesis*, or practical wisdom.¹⁷ Virtue exists in ‘two kinds: that of intellect and that of character’, character is affected by the intellectual part as we use it to moderate each virtue.¹⁸ We apply the virtue of intellect to help us inform virtues of character.

When moderating each virtue we aim for the point between excess and deficiency. This is the golden mean.¹⁹ The virtuous person knows how to use what they know about a situation in order to moderate their action to get the right amount of the virtue. The mean is the balance of the virtue. You can miss the target of the virtue which results in the wrong act and an inability to promote virtue. This can occur in two ways; firstly, by incorrectly judging the golden mean of the virtue; or secondly, by misjudging the aspects of the relevant virtue.²⁰

Foot notes that virtues are, firstly ‘the recognition of particular conditions as reasons for acting, and [secondly] the relevant action’.²¹ This particular quote identifies that virtue is three things, it guides right action, it is the character of the individual, and it is a quality exhibited by the virtuous person as well. In this chapter we are focusing on what makes the right action, however, since virtue is three things which are so intertwined, it is important to remember that in finding the right act, you are doing so to promote virtue and become the virtuous person. This is different from

¹⁶ Hursthouse. 29.

¹⁷ Aristotle. *Nicomachean Ethics*. 31; 1106b 35 – 1107a 1.

¹⁸ *ibid.* 23; 1103a 13.

¹⁹ *ibid.* 31; 1106b 38 – 1107a 2.

²⁰ Christine Swanton. *Virtue Ethics: A Pluralistic View* (New York: Oxford University Press, 2003): 239.

²¹ Philippa Foot. *Natural Goodness*. (Oxford: Oxford University Press, 2001): 13.

simply finding the virtue to do the right thing. We will return to this distinction in the next part of the chapter.

The point of Foot's quote is to acknowledge the relationship between intellectual virtues and character virtues. One cannot work towards the right action without first having regard for the conditions which force them to act, these are the circumstances in Hursthouse's primary *v-rule*. We need to draw our attention to circumstances through phronesis. Once we have worked out what it is, we can then we can promote virtue through the right action.

The virtues themselves are intrinsic goods because they are *good in and of themselves* and should be pursued for their own sake.²² They have qualities which allow virtuous people to engage with the world around them and get value from that world. Respect for others, friendship, courage, determination, humour, and many more are examples of intrinsic goods. They are also virtues which can help us live a life where we benefit from and engage with the world. The virtues benefit their possessor because they help them act well but they also help them move towards eudaimonia and live like the virtuous person.

When working out the right action, we want to be promoting good things. Friendship for example is a virtue. Aristotle notes that 'complete friendship is that of good people, those who are alike in their virtue: they each alike wish good things to each other in so far as they are good'.²³ To be a good friend one has to balance their responsibilities to themselves and to others. It has two vices: too little friendship is carelessness for others, too much would make you a meek individual.

Beginning with carelessness, if we did not care for or have empathy for our friends despite them caring for us, we would not be wanting them to have good things in life. We would effectively be wishing that their life did not go as well as our own. Being around a friend we did not care for particularly means we would damage the relationship. When they need something from us, we would be unwilling to help them. This is not fair and it takes advantage of them.

Conversely, a meek attitude in a friendship could allow you to be taken advantage of by someone else. This sort of relationship puts you in a position where you are unable to weigh up your own needs against those who are demanding your time. You end up giving too much of yourself to others and are, therefore, unable to reach your own good. This type of person is toxic and you end

²² Aristotle. *Nicomachean Ethics*. 8; 1096b 10.

²³ *ibid.* 146; 1156b 9 – 11.

up slipping under their control without regard for yourself. One should never be too friendly and should put up enough boundaries for self-preservation.

We have to find that golden mean of friendship. When we decide to act we do so with enough regard for our friend's ability to achieve their good, as well as our own. We use phronesis to moderate the level at which we deploy this. Occasionally we will need to put up more boundaries than others and phronesis will help us to balance friendship so that we act well in the situation.

As we learn virtues, they become part of who we are, just like skills.²⁴ We upskill our friendships all the time. Virtues become part of who we are because completion of virtue comes through habit.²⁵ This is a situational thing. We can only understand a situation once we have been through it. In other words, experience is key.

Through experience in situations, we will be able to build character and learn to act with virtue better and better. Our cognitive development and search for things in the world give us meaning help to build up that character.²⁶ This character building comes through circumstances and we can instinctively act with virtue promoting the right action through habit.

It is all about the circumstances

Circumstances change everything – often we will need to turn and face the strange to work out how to act in a new situation. Even familiar situations will require a level of engagement with the circumstances to ensure we moderate the virtue to get the mean appropriate to the situation. The circumstances require us to use phronesis to, firstly, work out which virtue we should act with, and secondly, how to use that virtue. The mean will change in every circumstance because to get the right action we must learn to act 'at the right times, about the right things, towards the right people, for the right end, and in the right way'.²⁷ Virtues are quite similar to a toolbox. We can pick and choose which to use to the best effect.

Virtue is both a mental discipline and an active one.²⁸ Our virtuous person will take a situation and weigh up the options. In any situation we have to act. Virtue aims to show us the way to find the right action. Foot notes that things like friendship, relationships with neighbours and many other social situations have, codes of conduct and social constructs are built out of these to

²⁴ Aristotle. *Nicomachean Ethics*. 24; 1103b 26.

²⁵ *ibid.* 23; 1103b 26.

²⁶ Morten L. Kringelbach & Kent C. Berridge. "The Neuroscience of Happiness and Pleasure." *Social Research*. 77, no. 2 (2010): 661.

²⁷ Aristotle. *Nicomachean Ethics*. 30; 1106b 21 – 24.

²⁸ *ibid.* 23; 1103a 13.

which we are expected to adhere. These codes and constructs will more than likely be developed with principles 'such as loyalty, fairness, kindness' which are of course virtues.²⁹ Her point is that circumstances are complex situations where sometimes we will need to appeal to a set of rules and in most circumstances those codes will have been developed through virtue. These rules can affect our analysis of circumstances.

When we are appealing to social constructs, we have to appeal to them to find out the best way to act and what is expected of us when we are in the situation. When we choose how to act it involves deliberation through the use of phronesis, the virtue of practical wisdom.³⁰ Deliberation does not produce scientific knowledge as it cannot prove one truth but it does show us different possible routes helping us to pick the best one.³¹ The virtuous person will use phronesis to select the right virtue by moderating between two vices and then work out how that virtue guides the action they are intending to perform.

Understanding the situation is like understanding how the person works in the friendship example earlier. It is important to remember we are all human and we do not always get it right. When we do not get it right, we see the distinction between acting with virtue and creating virtuous acts. Acting without putting enough thought into the circumstances around the situation and around what virtues we will use and how to apply the golden mean to them, could end up leading us away from a virtuous act.³² We can act with friendship but if we do not account for the situation our friend is in – for example depression – our friendly act may not be virtuous, even if it is done so with a conception of virtue.

During New Zealand's COVID-19 lockdown I started watching Coronation Street. While watching Sinead die from cancer, I noticed some phronesis. Sinead's husband Daniel is emotional and vulnerable. Daniel has befriended Bethany Platt and the two became very friendly and shared a very intimate kiss when Ken, Daniel's father, caught them kissing. With Sinead close to death, should Ken tell her that Daniel kissed Bethany?

Let's assume Ken is virtuous – to those who enjoy the show, this may be a bit of a joke, however, we will assume he is. As our stand-in for our virtuous person, Ken is aware Sinead is dying. It is difficult for her to breathe and speak. She cannot even walk to the window to touch the

²⁹ Foot. 45.

³⁰ Hursthouse. 12.

³¹ Aristotle. *Nicomachean Ethics*. 112; 1142b 2 – 3.

³² Swanton. *Virtue Ethics*. 239.

rain. While Daniel has betrayed Sinead, Ken decides that given the complications with her health, she is better to not know about this because it would hurt her unnecessarily.

Ken's character was compassionate, showing the exercise of a virtue of character, compassion. Through phronesis Ken worked his way through the complex web of factors in the situation and came to decide not to do anything because it would likely put poor Sinead through more pain. He deliberated through all of what he knew about Sinead's condition, Daniel's vulnerable and complex emotional state, Bethany Platt, and likely his own experiences of infidelity (which I am told have been numerous throughout the show). He wound up at that action because of the knowledge he had about the situation.

It is often hard to unpick the process of deliberation because it is an intensely personal thing. No one person has the same knowledge of things as another person. Often with phronesis we will find that only through experience will we get better at understanding what the right thing to do is. Invariably we will be wrong on many occasions. Using a wrong turn is vital for growth and understanding how to do things better in the future. In a sense, we practise virtue in the hopes that throughout our whole lives, we live well. This is how we skill up our virtues.

To perform the right action, like anything else, we will have to practise the elements of right action. To get the process right we continue to work on it. If 'practise involves standards of excellence' we must work hard at improving ourselves as it is only then we can only get closer to becoming the virtuous person.³³ Exercising virtue is continuous work and this is why it takes a whole life to achieve. We are constantly faced with new circumstances and have to try and work out what those circumstances demand. In turn, as we practise the virtues, we habituate them into our character. Virtue becomes who we are.

Decisions the virtuous person makes can be informed by social constructs or codes of conduct as well, which informs our practical wisdom and helps us use our virtues of intellect. When in public we act in a form of social convention. This, in a sense, is a form of phronesis. If we did not act in this way things would not go so well for us according to the circumstances of the social constructs. Phronesis helps us work out what to do but sometimes the circumstances will not be in our favour at all, consequently we will not always be able to get to a right action. This occurs when

³³ Alasdair MacIntyre. "The Nature of the Virtues." In *Virtue Ethics*, by Roger Crisp, & Michael Slote (New York: Oxford University Press, 1997): 127.

there is a disconnect between character and circumstances. Our character can be flawless; however, the circumstances provide a cruel fate for us.

Circumstances are the more variable part of the *v-rules*. They require us to use phronesis to moderate our virtue and find out how the act should be done at the time. This can occur in several ways. One is simply by understanding what is required of us at the time. Another way is due to the luck of a situation or it could be social constructs.



Over life we learn a series of skills called virtues, which we habituate into our day-to-day life. These skills become part of our character, and when faced with decisions our habits kick in and we act virtuously. Being virtuous can seem like an impossible task which has no instant gratification. So why does the virtuous person do it? Because the virtuous person gets something that they cannot get anywhere else: virtues are something that we 'would choose each of them even if they had no good effects', as this guides us to perform the right action.³⁴

Some situations require courage and some require patience, but all require character. Virtue theory is an agent-based theory of moral action. It tells us that we can do the right thing if we act with character in the right way at the right time. We moderate our actions according to the circumstances. Whether that be simply the situations around us or based upon luck or even social conventions we change how we act to best suit the situation.

Overall, some lives are really good, and others are quite terrible, yet many of them will be virtuous. It is all down to circumstance regardless of how well we act. Putting it that way can make it seem like ethics is weak, yet the fabric is so innate in people that often when they act they do it out of respect, compassion, and justice but do not even know they are doing it. In other words, they habituate virtue. Our virtuous person knows how to act well but we still need to work out why they know it is the best guide to act.

³⁴ Aristotle. *Nicomachean Ethics*. 11; 1097b 2 – 4.

WHO IS THE VIRTUOUS PERSON?

CHAPTER II

So, if character and circumstances help us find the right action, who is the virtuous person? How do we become a virtuous person? Hursthouse says ‘a virtuous agent is one who has, and exercises, certain character traits, namely the virtues’, this is a subsidiary premise of the v-rules.³⁵ The virtuous person knows when and how to exercise the virtues, however, has more to their life than just action.

This chapter looks a little deeper to find out how virtuous action leads to wellbeing. Firstly, we will discuss what eudaimonia is and why it is the ‘highest prudential good’.³⁶ Secondly, I will depart slightly from traditional Aristotelian scholarship and talk about stoicism and the role of happiness to the virtue theorist. This will set the background for the next chapter which looks at moral dilemmas and the problems they cause for the good life.

You will notice that much of this discussion has been focused on the action, not on the outcome. This is because virtue theory introduces the agent in the first instance, forcing you to think like the virtuous person in the situation from the outset.³⁷ That person should end up being you. Virtue theory then gives us the right action to do. Since we know what the virtuous person does, we can model ourselves on them.

Like the person at Disneyland who dresses as Mickey Mouse, they channel their character on what Mickey Mouse would do in the circumstances. The virtuous person puts energy into acting the right way because whatever flows from that is the right outcome. This is different from a *good* outcome, as virtue theory promotes that the *right action* is right regardless of the outcome, however, why do they do this?

Eudaimonia – The greatest thing

To further understand the virtuous person, let’s turn our heads to the goal of acting with virtue: Eudaimonia. When the virtuous person talks about living a virtuous life as a whole, they are aiming to achieve eudaimonia, which is ‘certain kind of activity of the soul’, and naturally will differ from person to person.³⁸ Eudaimonia is wellbeing which involves two conceptually different things – firstly virtue, the life of right action; and secondly, happiness, the enjoyment part of life.

³⁵ Hursthouse. 29.

³⁶ Badhwar. 4.

³⁷ *ibid.*

³⁸ Aristotle. *Nicomachean Ethics*. 20; 1102a 5.

Eudaimonia requires ‘the agent to have determined correctly what her end is, how best to achieve happiness is for her to have already determined what morality demands’.³⁹ Let us draw a distinction between wellbeing and happiness. Eudaimonia is wellbeing. It is the life lived well as a whole. Happiness is a component of that which represents the enjoyment factor of wellbeing.

We try to emulate the virtuous person. Carly Simon suggested that nobody does it better. We want to live the best life and achieve eudaimonia as it is the ‘highest prudential good’; nothing is better nor more worth pursuing.⁴⁰ Simon notes that there is some sort of magic inside the person; in the case of the virtuous person that magic is a trifecta of right action, enjoyment, and the luck of living with dignity. The person who reaches eudaimonia enjoys the ethical parts of life, the pleasurable parts of life, and the parts of life that are needed to live with dignity. Dignity is a concept we will come to in the fourth chapter. You do not have to be the spy who loved Simon, but you have to be able to find the right action over a lifetime.

Aristotle notes a question from the Athenian statesman Solon – should we not wait until the end of someone’s life to see if they were happy?⁴¹ He does not mean that a man can only be happy once evil can no longer reach him, but that he has had a whole life in which action can contribute to the goodness of a life lived well. To live a life well, we have to have life experiences to draw on – those life experiences make virtues of intellect and character and help us to inform decisions to choose the best action. Importantly, you need to assess life as a whole. It is the collective right actions over a life from which we can see if they lived a good life as a whole.

Happiness, as the enjoyment factor of life, can be ‘thought of simply in terms of contentment, enjoyment, or pleasure’⁴². Happiness is about reaping the rewards of the right actions, so courageous actions turn people into heroes, even if just for one day. The heroism is the promotion of the virtue beyond just the action. You become the virtue as much as you act with the virtue; this is eudaimonia. For the Aristotelian both virtue and happiness are necessary to reach eudaimonia. It is also about engaging with the virtue of pleasure.

Part of this means we have to have good intentions. We cannot be the virtuous person without actually wanting to do good things. Swanton believes ‘what makes a resolution distinctively virtue-ethical is that the resolution, whatever it is, is made via a conception of virtue’, and she is

³⁹ Julia Annas. “Prudence and Morality in Ancient and Modern Ethics.” *Ethics*. 105, no. 2 (1995): 245.

⁴⁰ Badhwar. 4.

⁴¹ Aristotle. *Nicomachean Ethics*. 16; 1100a 10 – 14.

⁴² Foot. 85.

right.⁴³ Generosity is exhibited in an altruistic person, like courage is exhibited in a hero. But, how do we balance happiness and virtue in a right action over a lifetime to be the altruistic person or the hero?

The right action is always informed by the circumstances around it. If we employ practical wisdom we can inform what we would do in this situation. If we are trying to act we do so through a conception of virtue. For example, *should* we donate an obscene amount of money to someone when we cannot afford to do so just to be altruistic?

Anscombe makes an interesting observation that 'there is nothing necessarily ethical about the word *should* occurring in the universal premise of a practical syllogism', so are donations an ethical requirement to be altruistic?⁴⁴ We want to help the person; this is because as we learn virtue, we create an altruistic character trait by practising and learning what are good things to do. Nietzsche warned the virtuous person to 'not be virtuous beyond your strength', and so we need to understand how *should* works.⁴⁵

We do not need to feel forced to be extremely generous, but we should always want to act generously. There is nothing wrong about saying no to someone on the street attempting to elicit a donation for a worthy cause, however, the virtuous person should want to do things for others. There are a variety of ways to do this. We can use practical reason to moderate how best we achieve our own level of generosity, balanced against our time commitments, commitments to loved ones, income levels and many other factors. We need to use phronesis to find the mean – but there is nothing that we *should* ever have to do to be generous.

The issue that remains is how can we ensure that our intentions are pure? We could always deceive ourselves. We cannot say no to everything and never make anytime to be generous by saying *should* is not an obligation. Justice is a self-regarding virtue according to Bloomfield. Swanton says we can do this with self-love. Bloomfield challenges us to reject the notion that justice is an other-regarding virtue and states it is 'necessary for self-respect'.⁴⁶ Swanton sees self-love as a form of strength which allows us to inform virtue.⁴⁷ This is achieved through phronesis and the golden mean. By turning our mind to justice, or self-love, we can check that we are not deceiving ourselves.

⁴³ Christine Swanton. "Virtue Ethics and the Problem of Demandingness." In *The Problem of Moral Demandingness: New Philosophical Essays*, by Timothy Chappell, 104-122. (New York: Palgrave MacMillan, 2009): 111.

⁴⁴ Elizabeth Anscombe. *Intention*. (Cambridge: Harvard University Press, 2000): 65.

⁴⁵ Swanton. *Virtue Ethics: A Pluralistic View*. 209.

⁴⁶ Paul Bloomfield "Justice as a Self-Regarding Virtue." *Philosophy and Phenomenology Research*. 82, no. 1 (January 2011): 48.

⁴⁷ Swanton. "Virtue Ethics and the Problem of Demandingness". 114.

Phronesis requires us to ensure that we do not discount ourselves out of the happy life. We moderate the level of altruism so that we do not give away more than we can afford to give. Further, because we *should* be altruistic does not mean we *must* always be altruistic. It does mean, however, that we should want to be generous. This is the balance of maintaining the ability to be happy in our own lives, and the ability to promote virtue. This is a tightrope which phronesis helps us navigate and allows us to perform the right actions consistently, both for ourselves and for others.

Carly Simon asks a question to the person in her song – **how did you learn to do the things you do?** The habits that the virtuous person develops to help them find the right action is the answer. When they upskill virtues, they do so for the purpose of achieving eudaimonia. This has to balance enjoying one's life as well as acting well and intending to act well. Everything the virtuous person does is to live their life well as a whole for themselves as well as others.

The not so greatest thing

There are other conceptions of eudaimonia. The conception I have used is rooted in Aristotelian theory, however, other conceptions of virtue theory view eudaimonia very differently. Eudaimonia to the stoic is 'understood as the perfection of agency' that is simply the ability to consistently act virtuously.⁴⁸ Happiness is not a necessary part of wellbeing to the stoic.

Generally speaking, the Aristotelian would agree with the scientific consensus that 'hedonic and eudemonic aspects empirically cohere together in happy people' – this means that people who receive pleasure in their lives and find meaning in life are happier, and this occurs more often than not.⁴⁹ The stoic would not agree with this. Generally speaking, they agree with the idea that eudaimonia is achieved over a whole life of right action, however, the virtue component is their focus and happiness does not matter as much. The role of circumstances and luck is likely the reason for discounting happiness.

Luck can change a life. For the stoic while they may have *perfected agency*, they did not need to enjoy life because this is out of their control.⁵⁰ So, if wellbeing for the stoic is only virtue achievement and no happiness, what does this mean for the individual attempting to be virtuous? Well, it means that no matter what occurs in their life, they have achieved eudaimonia and they are

⁴⁸ Lawrence C. Becker. *A New Stoicism*. (Princeton: Princeton University Press, 1999): 21.

⁴⁹ Kringsbach Berridge. 660.

⁵⁰ Seneca. "Consolation to Helvia." In *On the Shortness of Life*, by Seneca, translated by C. D. N. Costa, 34-67. (London: Penguin Books, 2004.): 45.

the virtuous person. It mitigates all the luck aspects by removing the necessity for the enjoyment of life to be a constituent part of wellbeing. To me this seems to be a cop out.

The only way to benefit from goods that are virtues is to engage with the world as we act. So, beyond a series of right actions over a whole life, we have to have been able to be courageous and have the benefits of courage flow back to us; have friendships and have had people be friendly with us as well. The virtues do not just guide right action but create the fuller wellbeing which is eudaimonia. The virtuous acts when done well, we will enjoy. You cannot write off the pleasurable aspects of heroism. Pleasure is part of performing the action well in positive circumstances.

Then enjoyment comes into play. If we do not enjoy things, our life will be drab and poor.⁵¹ Similarly, if the virtues fail, even though we did our best but the circumstances were such that our life could never be good, then we are unable to fully utilise the virtue even though we were technically right. Think friendships which are not reciprocated or are toxic. If this happens too much over a life, we can never say this is eudaimonia. It is not wellbeing because the person did not live well.

I call this “contentedness” and to the Aristotelian this is a stage one. Contentedness, the state of being content with the life lived is not the highest prudential good, but one which exists second to it. It is a life of virtue but to the stoic is eudaimonia. It is not sufficient to achieve eudaimonia for the Aristotelian – you need something else, and that is to enjoy your life. This is different from enjoyment. While circumstances are a factor, enjoyment comes from the virtue of pleasure as well, and often it is simply luck.

Enjoying life is acting virtuously because it is active engagement with pleasure. All virtues need to be balanced. The stoic ignores this by not including any pleasure. The virtue theorist needs to balance the pleasures available to them and ignoring it altogether means they cannot engage in some of the meaningful parts of life and satisfy their desires where it is virtuous to do so. Some of happiness is circumstantial, some of it is virtue, and since pleasure can be in part a virtue, then the stoic is foolish for discounting it because it can be luck.

For many virtue theorist’s happiness must consist of both desire satisfaction and a sense of satisfaction with how they live with others in the world.⁵² This must of course be balanced. If we place no value on our own lives, then how can we say it went well? It may have gone well for others,

⁵¹ Badhwar, 52.

⁵² *ibid.* 61.

but it would not be a life worth living. Desire satisfaction is important, otherwise we will be merely contented and never live well.

To be stoic then ignores those things. It ignores much of the consensus around the role that enjoying one's life has, as well as the role that desires have alongside actions we do for others. To live well is to engage in all parts of life; engage well with people around us and enjoy doing so. What stoicism does is point out that luck does play a role in wellbeing. There is a question around what happens when a life goes demonstrably wrong and we cannot achieve wellbeing because we cannot enjoy it. This is the subject of our next chapter.



The virtuous person is someone who engages in the right action across a lifetime. They promote the virtues to help themselves as well as those around them to live well and enjoy it. The virtuous person uses phronesis to make sure their life is well balanced. In doing so they can make sure they are not virtuous beyond their capacity.

Eudaimonia has various different conceptions, and the one that this chapter used was the Aristotelian concept. It differs from stoicism because it builds in enjoyment of one's life. Stoicism fails to account for this in the same way and misses the value of enjoying one's life. A contented life is one which the stoic ends up living. They do not necessarily enjoy it but they live virtuously.

The idea of this chapter is to understand the virtuous person's goal; eudaimonia. Once we understand this, we can look at what happens when life does not go so well. We know that luck plays a major role, however, it can make or break the virtuous person's ability to reach eudaimonia. In the next chapter we will look to the more depressing nature of a life with bad luck. This will set us up for how we can make lives better using virtue theory in public policy.

WHAT ARE MORAL DILEMMAS?

CHAPTER III

The problem with eudaimonia is that it is built of two parts: virtue and happiness. Happiness is needed in a life because we want to enjoy it. If we do not enjoy it, we cannot say that we have lived well because we have ignored an entire part of life, namely the virtue of pleasure and the enjoyment of acting virtuously. Pleasure and enjoyment are not present in every life. So, what does that mean for the virtuous person?

This chapter focuses on moral dilemmas, the things which change a life. They are inextricably linked to luck and in some cases can render both the virtue and happiness components of eudaimonia unable to be met. Firstly, we will look at what irresolvable dilemmas and tragedies are and how they impact a life. Secondly, we delve deeper into tragedies and look at Sophie's Choice and see how that impacted the virtuous life. Thirdly, we discuss the impact of the demandingness objection and why it fails in cases of tragedies.

Since circumstances infiltrate life so significantly sometimes, the right action is not going to be a good action, and there is no way of mitigating it. This has an impact on how the life is lived. Many of these things happen in real life. Stories on the news of war-torn countries where people have suffered are examples of how tragedies have led to people not living a good life. As we canvas this depressing topic, it will begin setting the background for how moral theory can help make lives go well.

Irresolvable dilemmas and Tragedies

You may find yourself living in a shotgun shack. You may find yourself in another part of the world. You may find yourself behind the wheel of a large automobile, and you may think to yourself, how did I get here? Well the answer that Talking Heads allude to is luck. There are many sorts of luck that we can encounter. It is dependent on our old friend, circumstances. Good luck can befall anyone. The lottery for example is just a random series of numbers; if you get those numbers you can win millions of dollars. Bad luck can befall anyone just as randomly, and often more so.

If our basic needs are not met, we are more likely to end up in unlucky and tragic circumstances. In moral dilemmas bad luck can appear in two ways, either through irresolvable dilemmas or tragedies. Both mark a very stark distinction in whether or not the right action allows for us to become the virtuous person.

Virtue theory focuses on actions, however, due to the circumstances sometimes our actions will not be virtuous. We know that circumstances often require the virtue of intellect to help moderate the virtue used and how it is used. Yet some circumstances will be such that virtue is hard to achieve, and in extreme cases, impossible. We know that the virtues are things which are *good for* the individual because they provide the possessor with a justification that *x* is beneficial to them.⁵³ Sometimes, however, it is *good that* virtues are used so that *x* has a positive impact even if they do not benefit the possessor.⁵⁴

When an individual is faced with negative circumstances, the fact that virtues are *good for* and *good that* the individual acts with them cannot always be true. In some situations, the agent will have to act despite there being no clear right action. On a scale of negativity, we can do the right action, but the outcomes range from disappointing, to saddening, to complete tragedies. The worst sorts of outcomes are from irresolvable dilemmas are tragedies. Tragic luck can interrupt a life so much that it cannot be called a life lived well.

Irresolvable dilemmas are the situations where the right action is undeterminable. Faced with a problem, one virtuous person will choose *q* and the other will choose *r*, in the circumstances both are correct.⁵⁵ This can be beneficial in certain circumstances. Choosing between two presents, both of which your child wants, will mean that either present will be the right one. In negative situations it makes the guide to right action murky, unclear, and psychologically exhausting.

For those who are trying to achieve wellbeing, an irresolvable dilemma is not necessarily the worst thing. If someone is faced with two equally bad courses of action and both courses of action will still allow them to live as the virtuous person, then they are doing as the virtuous person would characteristically do in the circumstances. It is just a slight step backwards. Some decisions may never allow them to live a good life and be virtuous; these are tragedies.

Tragedies are situations from which no one can be a virtuous person. There is a right action, but the right action is one from which 'a virtuous agent cannot emerge from it with her life unmarred' and thus cannot live a life of eudaimonia.⁵⁶ Tragedies are a certain type of irresolvable dilemmas because whatever the outcome it will impact the agent negatively and likely mean that they cannot live their lives well. They will be forced to choose one way over the other but wreck

⁵³ Richard Kraut, *What is Good and Why: The Ethics of Well-Being*. (Cambridge: Harvard University, 2009): 74.

⁵⁴ *ibid.*

⁵⁵ Hursthouse. 68.

⁵⁶ *ibid.* 77.

their life in the process. You could consider it a *super irresolvable dilemma* because the ultimate result is a terrible life which ever action they choose.

Circumstances in which we live will always dictate our ability to promote a virtuous action. Tragedies are the difference between the life of eudaimonia and contentedness, but also the difference between why we should act with virtue even though the outcome is terrible. By making sure that *x* is *good for* us and those around us, as opposed to making sure it is *good that* we did *x* we can understand that much of it is out of our control. We still must do the best we can, so acting with virtue is necessary even if we can never be virtuous. As these are a part of life, our acts do not demand anything of the virtuous person which is out of the realms of reality.

Moving into the next section of this chapter, I will give an account of a tragedy and how circumstances allowed the tragedy to occur. I will also show that because it is not the demands of virtue theory which makes choosing the right action demanding but the circumstances, we should be looking towards a virtue theoretical conception of public policy to resolve this.

Sophie's Choice

The best example of a tragedy caused by public policy settings is the book and film adaption of Sophie's Choice, where Sophie is taken to a Nazi concentration camp and made to decide which of her two children lives and which dies. She picks one over the other arbitrarily and has to live with that choice for the rest of her life. Like all tragedies it caused Sophie 'immense regret or pain' and she could never forgive herself.⁵⁷ She was psychologically tortured for her life.

This is a horrible example because it preys on human emotion, and no outcome was good. Sophie could never be happy again. The cruelty of this decision is whichever way she turned; she would have an unhappy result. Sophie could still live a full life after the concentration camp and make amends to her dead child by living a good and full life although not a virtuous life. Every action she made could still be virtuous, and she can live to help other people and do good for others.

Sophie's Choice highlights a cruel reality for the virtue theorist. The reality is that sometimes the only good option is terrible and will diminish happiness and dignity even if life is lived well after a terrible situation. This is simply the idea that 'tragedy may ruin a life'.⁵⁸ It is at this point that resilience comes into play. Our virtuous person will employ resilience to get through trying

⁵⁷ *ibid.* 73.

⁵⁸ Paul Bloomfield. *The Virtues of Happiness: A Theory of the Good Life*. (New York: Oxford University Press, 2016): 145.

circumstances to continue to live the best life they can in the circumstances. They may never be able to recover because of the impact the decision had on them.

People like Sophie should still be considered good people. They will not achieve eudaimonia, but they can be considered as having reached contentedness. We recognise them as good people although not fully virtuous. They meet all the criteria; they understand virtue as a guide to action, know what goods are, understand phronesis, and understand the distinction between wellbeing and happiness. They never obtain happiness, and therefore never live the life of wellbeing due to circumstances. They do not achieve eudaimonia despite being a good person.

This tragedy, like all tragedies, is an irresolvable dilemma. Tragedies are always irresolvable dilemmas, however, not all irresolvable dilemmas are tragedies; they become a tragedy due to the quashing of eudaimonia in the agent's future. For Sophie, had she chosen the son, the reaction would be the same. Had she chosen neither, the outcome would have been the same. Death. Sophie made the right decision. Her only other options were equally as disturbing. This highlights the focus on actions and accepting the outcome regardless of how good or bad it is.

The circumstances were such that it required immense courage to come to that conclusion as 'the only alternatives... will produce the same amount of suffering'.⁵⁹ This resulted in her living a life which she could not enjoy. Sophie remained merely content because she had chosen the right action but it left her life tarnished because of the circumstances she was in. She was so incredibly unlucky being a Jewish woman in Poland. She could still try to act like the virtuous person and be courageous, but she could never be the hero because what she had to do was horrifying. Her action was justifiable because of the circumstances, but it would never lead to eudaimonia, only contentment. She acted with virtue but the circumstances failed to allow her to promote virtue. Unlike Solon on his deathbed, Sophie Zawistowski could never have led a happy life.

Throughout history there have been many horrifying acts which have occurred, such as the holocaust, genocides worldwide, terrorist activities such as September 11 or the 2015 Bangkok Bombing. These have forced a contortion of psychological equipment and overridden common and basic desires. It is a fact of life these things can occur.

⁵⁹ Hursthouse. 64.

Maybe this time I'll be lucky

Often 'whatever is best for a human being lies outside human control'.⁶⁰ Luck plays a huge role in the person's ability to enjoy life. Tragedies will stop people from living a good life. Earlier I mentioned that Sophie was psychologically tortured by the decision to kill the daughter.

Owen Flanagan presented a challenge to virtue theory due to it being too demanding. His challenge is that in many circumstances virtue theory cannot give an adequate guide to action because it can demand too much of people psychologically. In terms of tragedies virtue theory only demands what the circumstances demand and it is the circumstances which cause psychological catastrophe.

Flanagan's challenge to virtue theory was that it can require an individual to choose a course of action which demands too much of them. He believes that virtue theory is; firstly, too distant from our sociological or historical concepts; secondly, requires us to override common or basic desires; or thirdly requires a change in mental disposition.⁶¹

In this case, it is, however, entirely believable that this could happen. We know this because the holocaust did happen, and many things, like Sophie's Choice, did actually occur. In the case of tragedies, Flanagan's assertion is idealistic. Swanton explains the demandingness objection as a struggle to 'integrate constraints (a) and (b) given the difficulty of the theory in the three respects identified by Flanagan'.⁶² Swanton elaborates, that constraint (a) - the demands of the world, and constraint (b) - the constraint of human nature, must be integrated as part of any moral theory.⁶³

The demands of the world to Sophie are such that she is rendered incapable of making a decision and is forced to do something horrid. During the course of this thesis, I have discussed much of my philosophy with my own mother. While an excellent sounding board, she refused to discuss Sophie's Choice with me altogether; why? - because she cannot bear thinking about pitting me against my older sister in a competition of who lives and who does not. It horrifies her so much she will not talk about it.

A mother's desire to save their child is such that the constraint of human nature has been desecrated by the demands of the world. Hitler and his nasty gang forced Sophie to make a decision which overrides the social norm of a mother to protect her child. The situation overrides her desire

⁶⁰ Seneca. 45.

⁶¹ Owen Flanagan. *Varieties of Moral Personality: Ethics and Psychological Realism*. (Cambridge: Harvard University Press, 1993): 38.

⁶² Swanton. "Virtue Ethics and the Problem of Demandingness." 110.

⁶³ *ibid.* 108.

to be with, love, and protect her children. It also forced such a change in mental disposition, one to never put her child in harm's way, and in doing so permanently torture her.

Decisions like Sophie's 'call for some very unlikely contortion or realignment of our basic psychological equipment'; this requires such a level of demand that we cannot move towards emulating the virtuous person without significant changes to how we think.⁶⁴ As an agent-centred theory, the very fact the agent, the virtuous person, is approaching the situation, means that we can stumble into conflicts between how we think of virtue and what virtue requires of us in the situation. This is the nature of an irresolvable dilemma and the tragedy part, that the dilemma has called for a cruel action – the only right actions are horrid and will not promote virtue even if they are done with a conception of virtue.

An act utilitarian would go about the situation in much the same way. They consider that 'actions are right in proportion as they tend to promote happiness, wrong in proportion as they tend to produce the reverse of happiness' and so whatever is right is what promotes the most happiness, or the least amount of suffering.⁶⁵ In Sophie's Choice, what option would cause the most happiness, or the least amount of suffering? Neither – there is no way to weigh the two up. Even a utilitarian would probably come to the same conclusion as Sophie and not be able to live well. The issue with demandingness is that in situations of bad luck, the issue is not with the decision-making theory but with the circumstances.

Flanagan's idealistic view illustrates that life is terrible and can cause psychological trauma and damage to people. What we are better off doing is addressing the issues surrounding luck. What we should start to look at are the policy settings which we can use to reduce bad luck. Hitler's Germany had a series of policy settings which allowed the holocaust to occur because the power he gave to people was used to do cruel things. Subjecting Sophie to the choice was torture and caused the tragic dilemma, through no fault of her own; it was horrid luck. So, to improve situations where bad luck is caused, we should turn our head to policy.

Luck is the uncontrollable aspect of virtue theory, if it is bad then the circumstances we find ourselves in may be difficult to navigate. Circumstances are such that we need them to find the right action – whatever the right action says to do is the right outcome, however, the right outcome may

⁶⁴ Flanagan. 38.

⁶⁵ John Stuart Mill. *Utilitarianism*. (New York: Dover Publications, 2013): 10.

not be good and not promote virtue even if done through a conception of virtue – and this is because of the circumstances.

Irresolvable dilemmas and tragedies can change a life. Irresolvable dilemmas show us that sometimes the right action will be indeterminable, meaning that each option has equal value and is equally right. In the case of tragedies, each option has equal value but is so horrible due to the circumstances. The individual ends up unable to achieve eudaimonia because they can never be happy again through no fault of their own.

Sophie's Choice is a tragedy. Every answer she has was horrid and in choosing one child to die, she ended up discounting herself from a life of eudaimonia. This tragedy paralyzed her psychologically and left her tormented for years.

One criticism levelled at virtue theory is that it is too demanding. Flanagan makes some comments about what demandingness looks like in virtue theory; however, he fails to see that in tragedies, it is the circumstances which create the torture. It is not the decision-making procedure.

Our discussion up to now begs the question, how can we help people avoid tragic situations? This is the core discussion I want this thesis to cover. The first three chapters set the scene for this discussion. From here we will start to delve deeply into what public policy can influence to make lives go better, and why we should do that.

WHAT MAKES A LIFE GO WELL?

CHAPTER IV

Wellbeing is the centre of virtue theory. We know that a virtuous person lives a good life because over time they perform a series of right actions which allows them to reach a point of moral resonance with the world. If they are lucky, they get to flourish and live a life of eudaimonia – the flourishing life, the life of wellbeing. Virtue theory appeals to a set of principles or guides, the *v-rules*, which act as ‘a doctrine about the good life and the nature of value’.⁶⁶ It is not enough to say that we need virtue to live well; there is something else. Some of this comes from pleasure, however beyond that, there are substantive aspects of life which make it a life of dignity; those things that we need to live.

This chapter focuses on what it is inside the virtuous person’s life that makes it flourish as eudaimonia, rather than just being contented. These are the things which if we are unlucky we may not have, yet they are human needs and required for dignity. Firstly, I will introduce Nussbaum’s capability approach and show what things all people need to live well. Secondly, I will discuss how they relate to wellbeing and this will set the scene for how we can use them to enhance wellbeing.

The story of wellbeing is tied into every chapter thus far. It is about the right action over a whole life, understanding the virtuous person, goods, and why the world is demanding. This chapter will bring those ideas together and give an account of the substantive things that can change the virtuous person’s life from contentedness to one of eudaimonia. The capabilities are the substantive goods in life which help people to live with good character because once we have the capabilities, our needs are met. It will set us up for how policy should be equipped to deal with helping people to reduce obstacles to living well.

The good life

The virtuous person enjoys their life and they enjoy being good. They have learned to exhibit their virtues. They truly are a bastion of their art; as Carly Simon would say, nobody does it better. There are some things we need from the world to live a good life. We want a world where ‘living conditions deliver to people a life that is worthy of the human dignity that they possess’.⁶⁷ So, what are the things we need in our life, before the virtues to live well?

⁶⁶ Martha Nussbaum. “Perfectionist Liberalism and Political Liberalism.” *Philosophy & Public Affairs*. 39, no. 1 (2011): 5.

⁶⁷ Nussbaum. *Creating Capabilities*. 30.

Martha Nussbaum gives an approach to social justice, which promotes human capabilities. She notes that 'the Capabilities Approach can be provisionally defined as an approach to comparative quality-of-life assessment and theorising about basic social justice'.⁶⁸ The capabilities can be imported into the public policy sphere and can help us inform how we distribute goods justly in response to considerations of human wellbeing, their capabilities.

A capabilities approach sits tidily next to virtue theory. In a sense, it also holds 'Aristotle's ideas that human wellbeing is the exercise of the capacity for intellectual and ethical virtues'.⁶⁹ It has the substantive foundations to allow people to grow into the virtuous person. This allows our policymakers to have some clarity when applying practical wisdom to distributive justice, as it gives them a set of capabilities that need to be fairly distributed. The capabilities are 'at a bare minimum, an ample threshold level of ten Central Capabilities'.⁷⁰ These are the things which people should be able to do, specifically:⁷¹

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| 1. <i>Life</i> | 7. <i>Affiliation – the ability to live and connect with other humans; and dignity and non-discrimination</i> |
| 2. <i>Bodily Health</i> | 8. <i>Other species</i> |
| 3. <i>Bodily Integrity</i> | 9. <i>Play</i> |
| 4. <i>Senses, imagination, and thought</i> | 10. <i>Control over your environment – Political; and Material</i> |
| 5. <i>Emotions</i> | |
| 6. <i>Practical reason</i> | |

Nussbaum does not intend her list to be exhaustive.⁷² It is adaptive and living, as are people. I have adopted this list for virtue theory's approach to public policy because this list contains the aspects of life that no one can fully function without. Objective list theorists often add some hedonistic and preferential things onto their lists, like pleasure.⁷³ In this case, we have senses, imagination, and thought. Virtue theory has pleasure built-in as an important virtue without which we cannot be happy and then cannot reach eudaimonia. This also has aspects of phronesis.

The capabilities help us to develop the virtues as we learn our own functionings. We firstly need the capabilities to help us achieve virtues. To help us enjoy our life we first need to reach a base

⁶⁸ *ibid.* 18.

⁶⁹ Kazutaka Inamura, "Democratic and Aristocratic Aristotle: An Aristotelian response to Nussbaum's Capabilities Approach." *Polis: The Journal for Ancient Greek Political Thought*. 29, no. 2 (2012): 286.

⁷⁰ Nussbaum. *Creating Capabilities*. 32.

⁷¹ *ibid.* 33-34.

⁷² *ibid.* 36.

⁷³ Tim Mulgan. *Ethics for a Broken World: Imagining Life After Catastrophe*. (Durham: Acumen Publishing, 2011): 108.

level of senses, imagination, and thought so that we can understand what enjoyment looks like, and also the role phronesis has in helping us to live well. Without the capabilities, we cannot focus on virtue, and are unlikely to live a good life because we do not have the basics to equip ourselves for life.

The capabilities in policy broadly looks like this: For example, control over one's political environment seems to be achieved through elections. Most people will think New Zealand has always done a good job with this; and then Mojo Mathers became a Member of Parliament. After Mathers was elected a few flaws appeared in our democratic system which led to the drafting of the Election Access Fund Bill, which was passed into law in early 2020. The Election Access Fund Bill originally drafted by Mathers, 'establishes a fund, administered by the Electoral Commission which may be used by any disabled candidate to cover disability-related costs of standing in a general election'.⁷⁴

Candidates incur costs but some will have hidden costs. For example, a deaf candidate like Mathers would need a sign language interpreter to help her in debates. Equality, in this sense, is moderated through fairness, so that no candidate with a disability will find it cost-prohibitive to stand for Parliament. The capabilities highlight issues like this and ask us to find how to achieve justice through an analysis of fairness. Everyone is on the same playing field.

The capabilities mean that we have to bring people up to a base level of capability so we can focus on functioning. Functionings are 'beings and doings that are the outgrowths or realizations of capabilities'.⁷⁵ People need to be able to function, however without work this cannot happen. Virtues as skills help people to draw out what is good from them. The individuals have to do some of the work to get the full force out of the capabilities.

To mark the distinction between functionings and capabilities, consider what we do for ourselves to help maintain a capability, and what we rely on others to help us to do. The functionings are our tasks and the capabilities require others. So, to keep bodily health above the threshold, we have to continue to brush our teeth, diet, exercise, and groom ourselves – we cannot expect these things to occur for us. These are the functionings. To get access to a heart surgeon when one needs

⁷⁴ Chlöe Swarbrick. Green Party of Aotearoa New Zealand. 11 March 2020. https://www.greens.org.nz/green_party_passes_landmark_law_to_ensure_deaf_and_disabled_voices_heard_equally_in_democracy (accessed April 8, 2020).

⁷⁵ Nussbaum. *Creating Capabilities*. 25.

one is the practical realisation of the capability of bodily health. It is not something that everyone can do as it is often cost prohibitive, and people may have to travel some distance to find one.

I concede I am not tied to this list of ten capabilities and am open to debate and change, however, I find this list to be holistic. It adequately shows that people need these goods in their lives, and it is underpinned by co-operation which grounds the list in reality and encourages further virtuous action. One sad reality about existence is we will have to rely on other people at some point in our lives. Whether it be as children when we are growing up, or when we are elderly and need people to help us achieve our basic needs. Some people will have to have help throughout their lives to simply be able to live.

When looking at the capabilities we can see how each one impacts someone's life going better or worse. Even more, we can see how if people are unable to get an adequate amount of these things they will not be able to live well enough to enjoy their lives. To focus on character, the substantive needs in life need to be met so that we can be the 'intellectual and ethical' agent we want to be.⁷⁶

Being capable of living a good life

One of the interesting things about the capabilities is that they are 'essential to and distinctive of humans'.⁷⁷ They fit into a perfectionist theory of wellbeing. This is one which has an ideal standard to strive for in order to live a good life. Virtue theory requires people to perform the right action over an entire life, plus they need to be able to enjoy it, and in order to enjoy it they need some basic things in life to live with dignity: the capabilities.

The capabilities complement virtue theory because they are the very things which differ between a life that goes well and a life that goes poorly. The reason we would choose to be virtuous is that we choose virtuous actions for their own sake.⁷⁸ Virtues are beneficial to people, and we do not want to be without them. They make life better. Since they make life better, we want everyone to live the best lives they can live but they are not the only thing that makes life better or worse.

Nussbaum's capabilities are connected to virtues in some way. Senses, imagination, and thought correlates directly to pleasure and phronesis. Without the ability and environment to develop our senses, imagination, and thought, we could not develop practical wisdom, something

⁷⁶ Inamura. 286.

⁷⁷ Thomas Hurka. *Perfectionism*. (New York: Oxford University Press, 1996): 13.

⁷⁸ Hursthouse. 126 – 127.

needed to moderate virtue, and is also a virtue in itself. Affiliation would leave us without friends and companionship. So when we act, we do so, to try and ensure we are capable of living well.

Many of the things we do and those things we call right action are done to enhance and help people live good lives. Sophie in *Sophie's Choice* chooses one child to die so her other child could have a life. She courageously chose to do this to preserve one of his capabilities, life. Sophie lost her child and her son lost his sister. Our capability to live well is so dramatically influenced by luck. We will never be able to ensure that everyone is going to act virtuously, and sometimes things will go so badly – like they did in *Sophie's Choice*. The Nazi's permanently stole Sophie's ability to reach the threshold in the affiliation and emotion capabilities.

Usually, we find things bad because of the 'damage done to the other person' and we, generally speaking, do not want to hurt other people.⁷⁹ This is true of many things: murder, adultery, and even smaller things, like not unloading the dishwasher for your partner when you know they are time poor. Reducing the damage to other people when we make decisions is virtuous because we can link them to something substantive about their wellbeing, namely the capabilities.

The capabilities give us a set of things we need to live well, and the virtues can help us get them, even if we need some luck. The question is how much of each capability do we need to live well. Because 'human dignity is an end in itself and not simply a means to other ends', like the virtues we need to balance each one and achieve a certain level.⁸⁰

Like virtue, each capability will have a point of deficiency, however, they are binary, as once you have anything more than 'bare minimum' required for human dignity, you have enough to live well and a better chance of avoiding bad luck.⁸¹ You cannot have too much life, or bodily integrity. One could say you have too much emotion, if you are an emotional person, however, that is not the idea of the capabilities. Emotion, for example, is about 'being able to have attachments to things and people outside of ourselves' and not about being over- or under-emotional, but to be able to learn to have emotions.⁸² The capabilities are about what people need before they can function. Brushing one's teeth versus access to the heart surgeon.

If each capability has a point of deficiency, then the golden mean points to a welfare threshold for each capability below which people's lives do not go well, and they do not flourish.

⁷⁹ Kraut. *What is Good and Why*. 34.

⁸⁰ Martha C. Nussbaum. "Aristotle, Politics, and Human Capabilities: A Response to Antony, Arneson, Charlesworth, and Mulgan." *Ethics*. 111, no. 1 (2000): 106.

⁸¹ Nussbaum. *Creating Capabilities*. 32.

⁸² *ibid.* 33.

Once above that threshold their life has a better chance of going well. There will still of course be freak accidents and bad luck but having a minimum of each capability will help reduce this. Anything above the threshold is the responsibility of the individual as it falls into their functionings, and they need to moderate it from there.

The threshold exists at the point where it stops them from being able to engage meaningfully with each capability. If you cannot form attachments, you cannot trust people, and we need to trust people in some cases to get basic necessities, to do our jobs, to buy food. The threshold is where we see the change in life.



Virtues make a connection between a right action and the substantive description of wellbeing, particularly the capabilities, because they can describe what we need to do to live well. Virtue theory cannot give a method for everyone to live well because of the nature of circumstances, but it can show us in great detail what makes a good life a good life.

Once we know what makes a good life good, we can copy the virtuous person and aim for eudaimonia. We can only ever do our best, but our best is through the right action and through trying to promote virtue, and therefore the capabilities, for us and those around us. The issue is what to do when circumstances are such that people are constantly missing out on the chance to live well.

To help ensure that everyone has a chance to live well, policy is best directed through the virtue theorists' approach to wellbeing. We can use the capabilities to give people a good life. As we turn from individual ethics to policy, we will continue to use virtue theory as a means to get the best wellbeing for people.

HOW CAN WE MAKE LIVES GO BETTER?

CHAPTER V

Individual lives and right actions are one thing but luck is circumstantial and often the result of what others do. Collectively we live together in a world in which our decisions affect each other. Governments become formed so that we can delegate the decisions around how to distribute our shared resources. The 'capabilities are important because of the way in which they may lead to functionings' and so we can make people's lives go better if we know how to help them reach the threshold in each capability.⁸³

In this chapter we will look at how collectively we can help people's lives go better. Firstly, we will discuss public goods and how the use of these things can help people to lead better lives. Secondly, we will look at the virtue of justice and how it impacts society. This chapter will set us up for the next one where will look at how it applies to policies.

Rather than looking at politics and political structures themselves, we look at what agents within those structures can do when developing and setting policy in a society. This presupposes the current political structure of many democratic nations. The discussion is about the best course of action for the individuals when deciding on policy so they can target wellbeing. Their conception of wellbeing is the capabilities.

The right action in individual situations is achieved by character in the circumstances. A government is a collective of individuals sharing resources held in common. The government and individuals have the same goal – flourishing, as the 'city is primarily for the sake of living well'.⁸⁴ This means that our political structures have to distribute and organise public goods so that the people who receive them can live well and benefit from those things held in common.

We can achieve this by adapting the primary *v-rule*. A policy is right if it is what a virtuous agent would characteristically do in the circumstances. Circumstances are challenging and luck is a natural phenomenon which humans cannot fight, but justice and public goods can help us to reduce obstacles for those in need. They can do this by using the goods to target the individual capabilities and bring them to the minimum level for dignity.

⁸³ Nussbaum. *Creating Capabilities*. 25.

⁸⁴ Aristotle. *Politics*. Translated by Carnes Lord. (Chicago: University of Chicago Press, 2013): 76; 1280a 31 – 32.

Using public goods

Public goods have ‘two characteristic features, indivisibility and publicness’; in other words, we all own them, and we all need them.⁸⁵ Things like education, health, and housing are often private. People own their own houses and can send their kids to private schools. They are divisible and not always public. I will return to these sorts of public goods shortly.

Public goods are held in common because they are indivisible, and the government administers them for us. Despite their indivisibility, we surrender some of the functions of other goods like education and health to the government to administer so everyone can have access. We do this because these sorts of ‘capabilities are important because of the way in which they may lead to functioning’.⁸⁶

The purpose of a government providing public goods is that ‘man is by nature a political animal... the common advantage too brings them together, to the extent it falls to each to live finely’; people come together because they can live better together.⁸⁷ We do not arbitrarily form states or political structures; we cooperate to use those things that we hold in common. Yet because of this power, the government is able to help people and do more to influence wellbeing.

If we consider public goods as assets in the basic economic sense, Rawls notes that the various types of public goods differ depending on their indivisibility and publicness.⁸⁸ National parks are a great example of this; they are open to everyone and indivisible. Defence and public security are other examples. Yet many public goods are not open to everyone but provided to those who need them, such as social housing. Rawls’ distinction is true for many things, but it misses another category of goods.

It seems we have two types of public goods. I call one sort of public goods “asset goods” and the other “access goods”. Assets are tangible, in the sense the government holds land for people, owns properties it works from, or state-owned enterprises which people use for services. Some of these investments are means to help the public use the public goods and also to meet basic needs. Housing owned by the state is used to help people who struggle to fund their own accommodation and is not open to everyone unlike a national park. You can turn up to walk the Tongariro Crossing at almost any time but you cannot walk into any old state house for the sake of it. The distinction

⁸⁵ Rawls. 266.

⁸⁶ Nussbaum. *Creating Capabilities*. 25.

⁸⁷ Aristotle. *Politics*. 72; 1278b 20 – 22.

⁸⁸ Rawls. 267.

between asset and access goods lies in these two things. Asset goods benefits everyone's capabilities at most times, access goods helps anyone who needs help boosting that capability.

Housing is an access good. It is where the government uses its public resources to help people get access to some of those things they need for their 'functioning... active realisation of one or more capabilities'.⁸⁹ The other sort, such as national parks are an asset good. It is something the government looks after on behalf of the people so that they can use and enjoy it equally. This has a contribution to the capabilities; however, the access goods are those which are provided to increase capabilities above the threshold level for each capability so that people can start to focus on their functionings and the virtues which flow from them.

Despite the fact that many of these access goods are indivisible, governments have a public avenue for them so that everyone has access. Education, like housing, is one of these. Higher levels of education means that everyone can learn from each other. Education is intrinsically good; its value flows back and can be used by the individual and those around them. The benefits for the individual flow back to everyone else as 'the good is the same for an individual as for a city, that of the city is a greater and more complete thing to obtain and preserve'.⁹⁰ So, we help people access goods they may not get otherwise, for everyone's benefit.

Access goods are divisible and there are private alternatives, such as private schools, hospitals, and owning your own house. So public goods are not always indivisible but they are public. All public goods are the levers which government can pull to reduce barriers to wellbeing. Asset goods are vital because we want people to experience nature through national parks and to vote in elections, at least for all adults. These things are open to all people regardless of how much they need them. Access goods allow people who may not be able to get those things to have a house to live in and get treatment when they need it.

The purpose of access goods is to provide 'living conditions [that] deliver to people a life that is worthy of the human dignity that they possess'.⁹¹ The return on investments is distributed back into the public to help those who need to live better, to live well. This means that we can give people, who are equally unequal a fair chance to access what they need to reach basic human dignity.

Tirole notes that 'we feel indignant when confronted, for example, with injustice or behaviour that shows little respect for human life' – so in cases where there is extreme poverty, we

⁸⁹ Nussbaum. *Creating Capabilities*. 25.

⁹⁰ Aristotle. *Nicomachean Ethics*. 4; 1094b 6 – 8.

⁹¹ Nussbaum. *Creating Capabilities*. 30.

feel we should do something about it.⁹² We have a motivation to want to help people to live well because human beings recognise that it is often luck. To quote Hyacinth Bucket in *Keeping Up Appearances*:

It's only an accident of birth that I'm not someone important. Well, I am someone important. It's simply an accident of birth that I'm not even more important.

This facetious quote is a humorous representation of the fact that from birth it is just luck how we end up living. We could end up born a future Queen or an heiress but equally we could end up born into poverty or Jewish in Nazi Germany.

Our gut instinct as human beings should be to ensure that everyone can live well. Currently our institutions in many democratic countries are set up to provide public goods, both in the form of asset goods and access goods. Many of these access goods speak to capabilities, and if we use them as a guide to drive public goods, we will see investment directly in people's needs. This is often not the case; however, the positive part is that many countries are set up to use public goods in this way. The question is how and the answer is civic justice.

The civic virtue of justice

Justice is important when we act in a world with others. Justice is the virtue of fairness for ourselves and others. It occurs in two senses. One is 'rectificatory', and the other is distributive.⁹³ Distributive is 'what is proportionate and what is unjust violates the proportion; one side becomes too large and the other too small'.⁹⁴ If it were possible, we would have to have levels of government intervention to repurpose resources eroding freedom.

Considering that 'distributive justice is done when these two persons obtain shares of the good divided that are proportional to the relative merits of each', what the virtuous policymaker should do is consider the distribution of resources based on the merits of people especially since they do not know most of the people.⁹⁵ This is not an easy task. Most of a government's policy work is done en masse and individual circumstances cannot be taken into account.

For Aristotle, the 'city is primarily for the sake of living well'; this means that our political structures have to distribute and organise public goods so that the people who elect them can live

⁹² Jean Tirole, *Economics for the Common Good*. (Princeton: Princeton University Press, 2016): 46.

⁹³ Aristotle, *Nicomachean Ethics*. 87; 1131b 27.

⁹⁴ *ibid.* 87; 1131b 19 – 21.

⁹⁵ William Mathie, "Political and Distributive Justice in the Political Science of Aristotle." *The Review of Politics*. 49, no. 1 (1987): 65.

well and benefit from those things held in common.⁹⁶ We created public goods to do this task but in sorting out how they work we need to ensure they work justly and promote fairness.

To understand government, we need to understand the virtuous person. We have had a look at what they think and what virtue theory says about actions. A government is made up of individuals working for the interests of the collective and so policy is a means of right action for the populace.

To look at the right actions, when looking after a number of people in a community, ‘the political community must be regarded, therefore, as being for the sake of noble actions, not for the sake of living together’.⁹⁷ We can use virtue theory again to work out what the best course of action for groups of people is. Justice is the virtue we deploy to use our public goods to bring people to the threshold of each capability and hopefully avoid bad luck and obstacles to a good life.

Fairness is one of the building blocks of distributive justice, and the other is equality. If we work back from justice – or to put it another way, how does injustice occur, we can see this. Injustice occurs when two parts of a whole differ.⁹⁸ It can also occur in the legal sense but this refers to rectificatory justice, which is about law and order opposed to fairness which is not relevant to the distribution of resources.

In terms of distributive justice, it occurs when those parts are not equal as ‘in any kind of action in which there is more or less, there is also an equal’.⁹⁹ Fairness is the application of equality to achieve justice. You would never administer the same test in mathematics set in English for a 100-level university course to both a PhD student in mathematics and a 7-year-old native German-speaking girl as a means to gain entry to Disneyland. This would be unfair, but it is equal on the above definition.

The result from the test is an almost certain failure for the girl, and in failing she will not be allowed entry to the most magical place on earth, despite sitting the same test as the PhD student. But they sat the same test, they had the same criteria to meet. While that is true, what is wrong is that it is not an equal playing field. The PhD student had a significant advantage. The *two parts* which Aristotle refers to fluctuate wildly in favour of the PhD student.

⁹⁶ Aristotle. *Politics*. 76; 1280a 31 – 32.

⁹⁷ *ibid.* 77; 1281a 1.

⁹⁸ Aristotle. *Nicomachean Ethics*. 84; 1130b 13 – 17.

⁹⁹ *ibid.* 84; 1131a 11 – 12.

We can use fairness to moderate the impacts of perceived equality. Fairness addresses where the allowances need to be made so that equality is moderated so that everyone has the same opportunities. We can ensure that the test given at the entrance to Disneyland is based on something that both a PhD student and 7-year-old German girl could pass, ensuring they have an equal chance of getting admitted to Disneyland.

Policy is an action. Because the virtuous person is concerned with acting well, the policymaker should be concerned with acting well too. For the sake of noble actions in society, they want to ensure everyone has the best chance to live a good life. This is simply the connection between ‘the purpose of political governance is to look after the good life of people’, and virtue theory’s methods of promoting goods.¹⁰⁰ This is achieved through justice, which is a good only to be delivered by a government as the government is representative of its people who own the common goods.¹⁰¹

Policymakers are guided to design and enact policy that promotes virtue. To observe distributive justice and do what is fair, we need to have policymakers act with justice because justice is the virtue that promotes those things that people need to live well. So, they act by promoting justice to ensure that fairness and equality are maintained. Justice has intrinsic benefits to people and in ensuring that people’s basic needs are met through the commonly held goods, policymakers are acting and promoting virtue for the common good.



Just as the right action is about characteristically acting in the circumstances, policy is about using justice to distribute public goods. This will be dependent on circumstances as well. Every country is different and has different public goods. The resources used will be deployed differently to find the right policy.

Public goods are divided into two categories, asset and access. We use both to promote wellbeing and to meet the capabilities. We can deploy what the government has in order to allow people to use assets but equally the government can use the return on its investment to further invest in people by providing them with the things they need for the capabilities. These public goods allow people to get the very basics they need to live a good life and function not only for themselves and families, but also for society.

¹⁰⁰ Inamura, 290.

¹⁰¹ Aristotle. *Politics*. 5; 1153a 35 – 40.

To do this the resources need to be deployed with justice. Justice teaches us that we need to balance fairness and equality so that people can get what they need. Not everything will be equal, but it should be fair. Some people have natural disadvantages and the state can provide the use of access goods to help those people get the benefit of the world they are in – this is exactly how the Electoral Fund Access Act works in New Zealand. It helps everyone get onto an equal playing field.

HOW CAN WE MAKE POLICY USING VIRTUE THEORY?

CHAPTER VI

The right action for the policy agent is a form of virtue theory. We have to look at a specific virtue for all people, namely justice, and use the goods at our disposal, namely the public goods, to help people live well. We need a conception of wellbeing; this is the capabilities.

This chapter looks at how the capabilities work with distributing public goods with justice to find out what policy settings should be used to ensure that people get the best chance at flourishing. Firstly, I will introduce the theory of a welfare baseline, which is the idea that all the capabilities have a basic threshold level, and once each capability is met, this is the basic level of wellbeing. Secondly, I will talk about how to moderate the public goods with justice to achieve the threshold for each capability. This then creates the right policy so that human functioning can lead to flourishing.

For the most part, our ethical considerations on a policy level will be just like they were on an individual level. We will employ the virtue of justice. We can think of policy like this:

P1 – All people are equal and deserve an equal chance at living the good life.

P2 – The resources at our disposal are public goods.

P3 – We use justice to show us what is fair and what is not.

P4 - To ensure people can live a good life, we need to distribute resources to them fairly.

C – Everyone has an adequate chance of reducing barriers to the good life.

This argument makes up the base of how virtue ethics approaches public policy. Practical wisdom in individual cases is easy to find and work out but when we are so far removed from people, we simply cannot know everything. We therefore appeal a specific virtue, using what we can to help people reduce their bad luck and hopefully live a better life, this virtue is justice. We apply justice to our resources to meet the threshold of each capability.

Finding the wellbeing baseline

The capabilities serve a dual purpose, like phronesis: firstly, to help us understand what it is that people need to live well, and secondly, to help us work out how to distribute public goods to people fairly. The capabilities act like phronesis does in individual ethics: as both a means of finding

virtue and a way of moderating it, however, 'one difficulty is how one nonarbitrarily sets the threshold level'.¹⁰²

Capability thresholds should be set by understanding what people need to live and what they need to flourish in the future. For policy to be effective we must have a method of ensuring that we can find what the threshold for each capability is, so that we can then find our welfare baseline. It is not a numerical figure but is the area between excess (which in this case is where a capability turns into functionings) and deficiency across all the capabilities.

Each capability has an excess and a deficiency, and by reaching a moderated point between the two (golden mean), we will achieve a welfare baseline overall. Given the fact that 'distributive justice [is] the relevant measure of the opportunities and resources and liberties made available to an individual' this is their wellbeing.¹⁰³ Our moderation is between when we have too little to be dignified in our lives, and too much that the capability becomes a functioning. We risk overusing the scarce public goods and dictating people's lives to them.

One will never be able to point to exactly where a capability meets its threshold as every country is different and every city in that country is different. Housing, for example differs from city to city and differs at each stage of life. In New Zealand first home buyers are struggling, whereas baby boomers can leverage equity in their homes to buy additional properties easily.¹⁰⁴ So policy has to be targeted and carefully looked at to enable the thresholds for different purposes. The threshold for baby boomers will be much lower than that for first home buyers, generally speaking.

The purpose of Aristotle's golden mean is to help us keep on the right path so we act with the right amount of virtue. Excessive use of public goods for people would push them above this baseline. People would have more than they need and would run the risk of stripping away people's choice, curbing their ability to choose their own paths. Consider that 'to lead a genuinely good life requires choice from options, because the good life for a person involves exercise of agency, not simply passive consumption', we need to enable choice.¹⁰⁵

Further, public goods are not infinite and so must be distributed in a manner which preserves them. Moving people above this threshold can only be 'informed by a detailed knowledge of the cultural, political, and historical context of their choices' and so anything which is beyond human

¹⁰² Richard J. Arneson. "Perfectionism and Politics." *Ethics*. 111, no. 1 (2000): 56.

¹⁰³ Richard J. Arneson. "Welfare Should Be the Currency of Justice." *Canadian Journal of Philosophy*. 30, no. 4 (2000): 502.

¹⁰⁴ Diana Clement. *One Roof*. 2 December 2018. <https://www.oneroof.co.nz/news/boomers-v-millennials-which-generation-has-faced-the-biggest-house-buying-hurdles-35688> (accessed November 23, 2020).

¹⁰⁵ Arneson. "Welfare Should Be the Currency of Justice." 509.

survival and dignity is not a question for policy but a question of equality in the private sector.¹⁰⁶ When things affect the ability to live and dignity of people's lives, they belong to the public policy sphere.

Too little justice, and therefore a low threshold of the capabilities, would produce a society where we see people living undignified lives. This could be anywhere from starvation, and homelessness, to simply struggling to find consistent work to provide people with an income. Because 'human dignity is an end in itself and not simply a means to other ends', and the city must help people live well, we want to ensure that they have the intrinsic goods needed to live.¹⁰⁷

So, we pull each threshold up to a level to allow people in the city to live with dignity. Once people meet the threshold in all of the capabilities, the individual can focus on their own flourishing and functionings. Anything which detracts from a person's ability to flourish is below the threshold for the capability. The welfare baseline occurs when the threshold of all the capabilities are met.

The purpose of finding the welfare baseline is so that we know what people need when the government distributes public goods. Without a conception of a baseline, we would be organising public goods into a system which has little to no purpose; how can you target needs without a conception of what people must have to live with dignity? What we are looking for is a 'minimum threshold of capability as a necessary condition for social justice', which allows people to meet their basic needs, giving them the chance to flourish.¹⁰⁸

In applying the capabilities as a means of using virtue theory for public policy, I have adopted Nussbaum's approach which is to describe them 'in a very general and intuitive way, moving through various areas of life influenced by public policy'.¹⁰⁹ This is because public goods are the only resources which a government or state has at its disposal. The state is made up of people, the people own the state and public goods, and the government is made up of a group of those people who have been delegated the authority to disseminate those public goods for the best benefit of everyone. Public goods are not uniform and are often scarce, so we need to be careful.

So, in generalising the goods which Nussbaum has listed, we can apply them to situations in public policy. The capabilities give us what the people should be and we work out the policy to ensure it helps meet the needs of the people. Arneson asks how the capabilities approach deals with

¹⁰⁶ Nussbaum. *Creating Capabilities*. 98.

¹⁰⁷ Nussbaum. "Aristotle, Politics, and Human Capabilities." 106.

¹⁰⁸ Nussbaum. *Creating Capabilities*. 76.

¹⁰⁹ *ibid.* 79.

variation in the types of lives we can have. He asks us to consider situations in which we must choose between helping individuals who are far below the threshold level and individuals who are very close to it'.¹¹⁰ This question accurately picks up on the issue of large variations in types of lives that people may lead without dignity.

I believe that the virtue ethical approach to public policy answers this question well. To address a situation where there are two lots of deficiency, one more extreme than the other, is relatively straightforward. The policy must meet a threshold in each capability to ensure people live well. We find the golden mean of each capability and tailor the use of our public goods to bring people up to the threshold. Once they meet the threshold for all the capabilities, we have given them the welfare baseline. Simply, by having the goal of policy be a welfare baseline, the whole policy should be able to bring all people, regardless of the level of deficiency in the capability, up to the threshold.

By co-operating with others, we give ourselves the things we need to live well. These are things we choose for the sake of themselves.¹¹¹ Co-operation is one major reason why we would choose the capabilities because when we co-operate we get access to those goods we need, and co-operation gives us affiliation. It has benefits in itself, which is why these capabilities work so well.

Consider the child who hates injections: His mother insists it will be good for him and pleads with him to remain calm during the immunisation. He does so because he trusts his mother and he co-operates with the health professional administering the needle. In doing so he has met two of Nussbaum's capabilities, bodily health and affiliation. Bodily health by his belief that the short prick of pain will benefit him in the long run. Affiliation through herd immunity, given that 'the members of the society must understand these relations and will their acts in part as sustaining them'.¹¹²

The child would not be able to manufacture, maintain, and administer the vaccine all on his own. Adults cannot do this either. The brute reality of co-operation is the very benefit we receive from it. They are acting for the good of themselves and the good of others.

By looking to the capabilities, we can form a good idea about what people need and then target our resources to those needs; however, the capabilities only form a part of the question. They allow us to work out what the problems are and what barriers people have to flourishing. A welfare

¹¹⁰ Arneson, "Perfectionism and Politics," 56.

¹¹¹ Aristotle, *Nicomachean Ethics*, 11; 1097b 2 – 4.

¹¹² Hurka, 133.

baseline is, in a sense, the negative proof to the action. It shows what is missing and gives us impetus to do something, but what is that something?

The purpose of this is to simply reduce the likelihood that people will live bad lives marred by tragedy. There will always be tragic freak accidents but these sorts of things should never come from the state, like Sophie's Choice did, instead it should be policies which are part of the common good like health care or education. These things should never cause someone to live a tragic life and by focussing on the capabilities we can help people avoid tragedy.

Moderating the public goods

The first thing to note about virtuous policy is that we cater to the needs of the most vulnerable. We develop our policies in line with ensuring that someone receives the assistance needed to live out a life worthy of human dignity. This means that should someone not be able to look after themselves we can disseminate public goods to them in a way which means that they can live a life of dignity, to have the best chance of reaching eudaimonia. It does not mean that we prescribe everyone a certain type of life which we expect them to live up to.

The capabilities are '*focused on choice or freedom*, holding the crucial goods that societies should be promoting for their people is a set of opportunities, or substantial freedoms, which people may or may not exercise in action: the choice is theirs'.¹¹³ The policy provides them with a means of living well, and the ability to live a dignified life, the choice remains with the individual whether they take it or not.

What makes people live well is giving them a structure in which they can be themselves. Given that 'virtue, then, is a state involving rational choice, consisting in a mean relative to us, and determined by reason', both factor in a substantial choice.¹¹⁴ This means that to live well a government cannot prescribe people a certain kind of life, so there must be limitations on the mandatory nature of what we can do. We can make choice not to take up policies provided by the government, or we can choose to use them. Humans need the ability to choose and live.

Health policy is an example of choice about whether or not we choose the public goods we have access to. I have suffered from severe migraines since my early teenage years; and have had numerous MRIs and neurological checks to find that nothing is wrong with me, other than the fact I get migraines once in a while. Those MRIs were paid for by a health insurance scheme subsidised

¹¹³ Nussbaum. *Creating Capabilities*. 18.

¹¹⁴ Aristotle. *Nicomachean Ethics*. 31; 1106b 37 – 1107a 2.

by my father's employer, and now by my employer. Numerous people do not have that sort of advantage. In New Zealand, that same treatment is available but paid for by the taxpayer for those who need it.

The difference: time. I had all my checks done in weeks. For someone waiting on the public system it could take up to 4 months.¹¹⁵ In a sense, we have both equality and inequality in this example. Everyone has access to the same treatment, however, I can circumvent the public system by paying into a private health insurer.

There is a mix of private and public. The public serves as the backstop to ensure that a baseline of welfare is maintained across the board. As I can afford private healthcare, I take that opportunity so that those who cannot afford it have better access to health care, as I am not taking their place in a queue. Unfortunately, in reality it does not quite work like that, and we need to find methods of better distributing it, to make it fairer. Using distributive justice as a virtue in policy, we can do this by focusing on what constitutes levels of wellbeing.

With the idea of combining choice and access without being overreaching, we can start to build an idea of what the good life should look like and how a government can address it. Consider this idea:¹¹⁶

The concept of basic capabilities must be used with much caution since we can easily imagine a theory that would hold that people's political and social entitlements should be proportional to their innate intelligence or skill.

When deriving this system, we have to ensure that we do not reward those who are smarter than others, or wealthier than others simply because of those facts. This would exacerbate inequality, so to approach policy by providing people with capabilities, we must look at a welfare baseline only, and then the government must stop judging or intervening in lives from there.

This is a criticism that has been levelled at virtue theory as Aristotle's distributive justice can be interpreted as saying 'it is 'just' according to distributive justice that people receive things, such as profit, honour and political authority, in proportion to how much they contribute to the purpose

¹¹⁵ Ministry of Health. *Questions and answers – Planned Care services*. 21 October 2019. <https://www.health.govt.nz/our-work/hospitals-and-specialist-care/planned-care-services/questions-and-answers-planned-care-services> (accessed February 5, 2020).

¹¹⁶ Nussbaum. *Creating Capabilities*. 24.

of the business'.¹¹⁷ We need to depart from this to allow people to choose their own path and contribute to wider society.

The capabilities can be drawn out in policy areas and defined into a means of acting (through policy) to ensure any one of those things are promoted for people. For example, Nussbaum's second capability is bodily health; 'having good health, the ability to reproduce and not suffering from malnutrition or lack of shelter'.¹¹⁸ These are basic needs that most people can provide themselves, but some cannot. Not everyone can develop vaccines for themselves, and inject them, so we have a public health system as a means to distribute access to equitable standards of health.

Since everyone needs to be healthy we distribute health services around the country. Everyone needs a slightly different level of health care but at the base of health, as a capability, is the idea that 'serving patient health is undoubtedly a central goal of medicine, but there are clearly better and worse ways of meeting this goal'.¹¹⁹ You cannot put just coronary care in one hospital because, while everyone has a heart, not everyone has heart problems. This would be serving patient health but a disadvantaged way of doing it.

If we were to develop a health system from the ground up, we would look to the capability of bodily health and work out what it is that people need in order to actually live a healthy life and be a healthy person. We can extrapolate out into policy areas that look like this:

- **Health** – People have access to medical care if needed and can seek treatments where possible, including mental health;
- **Food** – People must have food to stay alive;
- **Housing** – People need to have adequate shelter to live a good life;
- **Infrastructure** – People need the ability to get to health care facilities and have cities with clean infrastructure i.e. no sewerage on streets; and
- **Environment** – People need to breathe clean air and live in clean surroundings, so they do not get sick.

Those are parts of the puzzle of bodily health. The longer we sit together, we could think of different ways to ensure that health is maintained.

¹¹⁷ Inamura. 292.

¹¹⁸ Nussbaum. *Creating Capabilities*. 33.

¹¹⁹ Justin Oakley. "Good medical ethics, from the inside out—and back again." *Journal of Medical Ethics*. 41 (2015): 50.

So how did I get here? I was not in a large automobile driven by a beautiful wife. It was by asking these questions:

- 1) We need to work out what the virtuous person would need to be able to focus solely on their character and functionings (i.e., what capability do we need to promote?); and
- 2) We need to find out what areas the government can **influence** to ensure that justice is distributed to those who need resources in our society, and what **limitations** apply.

The two questions are the virtuous policy agent's questions. They are designed with the idea of using virtue theory to refine how we ascertain what the virtuous policymaker will do. The first question requires us to look at the capabilities and ask what fairness looks like when ensuring people get the things they need to reach these capabilities. This is enhanced in the second question.

I have highlighted two parts of the second question. Firstly, influence. Given the government can pull levers in the distribution of public goods, they can open up access to various resources so that people can get them when they need. The purpose of government is 'for the sake of living well', and to do this, the government is set up to disseminate public goods so people can live well.¹²⁰

The influence requirement can be broken down into this statement: **How can we arrange public goods for the good of the people who need [x] capability?** The influence question calls on the policy to look at distributive justice and how specific resources can be arranged in the society. It asks the government to look at what resources it has available to provide to people. When then move to the limitation to work how to deploy those public goods.

Secondly, limitations. The government cannot do everything. There are two constraints; the availability of public goods; and the freedom of the individual. We have to deal with scarcity, it is a brute fact that 'one person's consumption means that others cannot consume it too', in turn limiting what we can do with public goods.¹²¹ The other side is that the capabilities must be '*focused on choice or freedom*', and so we must limit how deep our policies can go into someone's life.¹²² If it stops them from being able to choose to do something or not, then our approach to policy through virtue theory has failed.

The limitation requirement can be broken down into this statement: **How do we find the balance of the capability, so we do not unnecessarily invade someone's life and we do not use**

¹²⁰ Aristotle. *Politics*. 76; 1280a 31 – 32.

¹²¹ Tirole. 24.

¹²² Nussbaum. *Creating Capabilities*. 18.

too much of a scarce resource? Limitation has a liberty component and an economic (scarcity) component. The liberty component is about ensuring we do not prescribe a life to someone by forcing resources on to them. The scarcity component relates to how much of the resource can be reasonably used so that enough quality resource is left for others.¹²³

The limitation question calls on the golden mean – public policy is 'a mean between two vices, one of excess, the other of deficiency'; we have to balance freedom when we use the resources.¹²⁴ We also have to balance the use of our public goods so we do not use too much of things which are scarce. By asking these questions, we can work out what areas the government has control over and how it can work out policies for people.

I will elaborate on these aspects of the limitation later on in the thesis, however as a brief example, consider a rough sleeper. In providing them with Housing, we cannot take them out of the city in which they live without their consent – this would be an invasion of their liberty. Equally you could not build them a 5-bedroom mansion with taxpayer money, as that would be poor use of the scarce resources of both housing and taxpayer money.

The capabilities put people in the centre and allow us to follow a means of achieving the welfare baseline without having to know the specific circumstances of each individual. A 'focus on the person makes a huge difference for policy', and we can ensure people's lives go well.¹²⁵ We can replace the specific circumstances of the individual with targeting our policies to the capabilities to meet their needs.

What Nussbaum achieves well is she argues for a list of intrinsically good things, which virtue theorists can pick up and mould to the situational requirements. Because they are intrinsically good things, like virtues, although they are not character traits, virtue theory can work well with them because they both aim to ensure people live a good life.

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To look to providing policy, which enhances people's capabilities, we need to rework the virtue theory approach to apply more broadly. We need to find out what to do with the capabilities and that is to provide a base level of access to what is needed to achieve that capability. We moderate the needs in the area to work out what the threshold is for that capability. We then attempt to deploy

¹²³ Mulgan. 47.

¹²⁴ Aristotle. *Nicomachean Ethics*. 31; 1107a 3.

¹²⁵ Nussbaum. *Creating Capabilities*. 35.

our public goods using the virtue of justice to bring people up to at least the threshold of all capabilities, so they have a base level of welfare.

Our public goods are moderated using two questions. The first is about what people need to focus solely on their character and functionings, this is what the capabilities target. The second is about the limitations and influence that the policy can have on public goods and the people, as to not overuse or underuse resources, but not to impinge on the freedom of people to live their lives.

We then can begin to see policy areas emerge and we can enable governments to target funding to particular socioeconomic areas and groups, to enable better quality of life. It makes the decision of what to do less arbitrary, because it is done using an objective set of measures for wellbeing which distribute public goods fairly to the people.

WHAT IS AN EXAMPLE OF POLICY MADE VIRTUOUSLY?

CHAPTER VII

To show the workings of my construction of virtue theory's approach to policy, I will use the coronavirus pandemic of 2019-2020 to illustrate how we can develop policy. At 11.59 pm NZDT on March 25th 2020, New Zealand entered a nationwide lockdown in response to the coronavirus pandemic for a minimum of four weeks. Effectively every New Zealander was sent home and told to stay there until the virus was contained. We could only leave to get the essentials needed to live; the Prime Minister summarised essential as 'supermarkets, banks, GPs, pharmacies, service stations, couriers and other important frontline service providers'.¹²⁶ Borders were closed and anyone entering New Zealand had to go into quarantine for two weeks.¹²⁷

The world shifted and those who could work from home worked from home. Employers and contractors who experienced a fall in revenue of 30% in the period between January-July 2020 could apply for a wage subsidy scheme; the Government increased support payments to those reliant on government packages and deployed a mortgage holiday scheme to be implemented by banks in New Zealand.¹²⁸ Four weeks after the Prime Minister's announcement and implementation of lockdown, nearly 30,000 people applied for the jobseeker benefit, taking the total number of those receiving income support to 335,000 New Zealanders; representing an increase of almost 10% in just one month.¹²⁹

The policy analysis I am performing is on the following question exclusively; **Was the implementation of alert level 4 between March 25 – April 27, 2020, a virtuous policy decision?** It will encompass the effects on people's lives as they pertain to the capabilities, as this is the methodology, I am advocating for in policy implementation. I will not focus on the alert levels themselves or the effects of moving down to alert level 3 as New Zealand did on April 27, just whether or not locking down the nation in alert level 4 was permissible for the purposes of

¹²⁶ Jacinda Ardern. "New Zealand moves to COVID-19 Alert Level 3, then Level 4 in 48 hours." *Beehive: The official website of the New Zealand Government*. 23 March 2020. <https://www.beehive.govt.nz/release/new-zealand-moves-covid-19-alert-level-3-then-level-4-48-hours> (accessed April 25, 2020).

¹²⁷ Ministry of Health. *COVID-19 - Epidemic Notice*. 30 April 2020. <https://www.health.govt.nz/our-work/diseases-and-conditions/covid-19-novel-coronavirus/covid-19-current-situation/covid-19-epidemic-notice> (accessed May 2, 2020).

¹²⁸ Grant Robertson. "Working together to protect businesses and workers ." *Beehive: The official website of the New Zealand Government*. 25 March 2020. <https://www.beehive.govt.nz/release/working-together-protect-businesses-and-workers> (accessed April 25, 2020).

¹²⁹ Sarah Robson. "Covid-19 lockdown: Nearly 30,000 more people on jobseeker benefit." *Radio New Zealand*. 25 April 2020. <https://www.rnz.co.nz/news/national/415038/covid-19-lockdown-nearly-30-000-more-people-on-jobseeker-benefit> (accessed April 25, 2020).

enhancing New Zealanders' capabilities. I will, however, touch on the impacts on capabilities caused by alert level 4.

Question 1: Work out what the virtuous person needs to live well

A lockdown is a dramatic shift in people's day-to-day activity. When I began writing this thesis I never thought such a crisis would occur, however, is a lockdown the best approach for people's welfare? We need to work out which capabilities the virtuous person would need to be maintained during a pandemic. This requires us looking at the capabilities and working out what will make people live a good life so that we can then look at the instruments of government to help them. We know they need a minimum of each capability to live well, so is a lockdown worth it?

In locking down the country, we affect the following capabilities: life, bodily health, bodily integrity, practical reason, affiliation, play, and control of our environment. We want to ensure everyone has an adequate baseline of these to live well, as enabling people to live well is the goal of government. We hit a major issue at alert level 4; not all these are impacted positively. This means that in following through with lockdown, trade-offs have to be made and flow on policies will have to be employed to counteract the negative impacts on other capabilities.

The purpose of the lockdown was to prevent community transmission of coronavirus. Life and bodily health are the capabilities addressed through the means of a level 4 lockdown. Being at home, New Zealanders entered a bubble and were restricted to seeing only those in their immediate vicinity, in other words, their house. Prime Minister Ardern stated that:¹³⁰

If community transmission takes off in New Zealand the number of cases will double every five days. If that happens unchecked, our health system will be inundated, and thousands of New Zealanders will die.

The lockdown prevented continued community transmission because New Zealand was acting as a community. This protected the lives of vulnerable people. This struck a particular chord with me. My mother is immunosuppressed as a result of her treatments for Lupus, Dr House's favourite disease. My older sister is immunosuppressed as a result of treatments for Rheumatoid Arthritis.

If either Mum or Caitlin contracted coronavirus, they would almost certainly die. The policy, in part, simply aimed at sustaining life and bodily health. This is an example of justice in action. To promote fairness, the government in deciding how to ensure that everyone's bodily health was

¹³⁰ Ardern.

maintained to a decent level, had to consider both healthy people and those who were more vulnerable. The balance needed to tip to a more heavy-handed version of justice if the vulnerable people, like Mum and Caitlin, contracted the virus they would certainly die – so the heavy-handed approach ensured that they would have their capabilities better protected.

The policy focused on the dignity of New Zealanders' lives, ensuring that we prevent deaths. We do this because 'a focus on dignity will dictate policy choices that protect and support agency' and allow New Zealanders to live a long and healthy life.¹³¹ By stamping out coronavirus from New Zealand, we are protecting people, like my mother and sister, so that no one loses loved ones unnecessarily and people do not lose their lives unnecessarily. It greatly reduced 'the likelihood that the coronavirus pandemic would overwhelm our intensive care capacity' by minimising the people who would come in contact with the disease.¹³² Our hospitals could focus treatments on those in need.

Despite the clear benefits to human life and health, a lockdown has a downside. Bodily integrity, practical reason, affiliation, play, and control of the environment are significantly diminished by this policy. We are suddenly restricted from 'being able to move freely from place to place'; we lost bodily integrity; we were stuck.¹³³

The development of reason slows and stops for some as schools move to online learning or close down for the period. Not all schools remained open; Victoria University of Wellington closed entirely for non-research students until April 28th, when the university moved to online learning and examinations.¹³⁴

Play was diminished as our ability 'to enjoy recreational activities' changed to only those within the house or the immediate geographical area.¹³⁵ Our control over our environment changed to only our material possessions in our immediate area. If we owned anything anywhere else, we would have to leave it there until the lockdown was lifted.

Affiliation was the biggest deficit in human dignity received from the lockdown. New Zealanders were restricted from 'being able to live with and toward others, to recognize and show

¹³¹ Nussbaum. *Creating Capabilities*. 30.

¹³² Grant Guilford. *Will an extended lockdown cost more lives than it saves?* 9 April 2020. <https://www.newsroom.co.nz/ideasroom/2020/04/09/1122155/will-an-extended-lockdown-cost-more-lives-than-it-saves> (accessed April 26, 2020).

¹³³ Nussbaum. *Creating Capabilities*. 33.

¹³⁴ Victoria University of Wellington. *Academic advice to students*. n.d. <https://www.wgtn.ac.nz/covid-19/students/academic-advice-to-students> (accessed April 26, 2020).

¹³⁵ Nussbaum. *Creating Capabilities*. 34.

concern for other human beings, to engage in various forms of social interaction'.¹³⁶ We had little to no physical contact with those with whom we did not live. This could be worsened with the economic fallout caused by alert level 4; people have lost jobs and more job losses are likely to come. This causes a long-term deficit in affiliation as people lose the ability to leave home and connect with others due to the costs associated with seeing other people and the social aspects of work.

For the lockdown, there are a large number of negative impacts on people. Enabling people to meet the threshold levels of several capabilities is traded off for the diminishment of their ability to meet the thresholds for human dignity in other capabilities. There is even a long-term negative impact on bodily health; consider this:¹³⁷

Unemployment is becoming widespread and with it comes a loss of wellbeing and a significant increase in the risk of suicide, psychosocial disorders such as alcohol abuse, and the diseases of poverty, including meningitis and rheumatic fever – all placing more demand on the health system.

Can this policy be justifiably taken? We aim to increase people's ability to live well, by implementing a welfare baseline, which meets threshold levels of human dignity across capabilities, so that they can go on to make choices and live virtuous lives. The lockdown made things worse in other areas. It only impacted life and bodily health positively in the immediate timeframe.

To address the wider implications, the Government is going to have to work on supplementary policies that address the areas concerned. Firstly, let's look at the economy as level 4 has had long-term implications for it. Figures produced by the New Zealand Treasury show that unemployment will be kept under 10%, and further reduced to under 5% in 2021, given the fiscal stimulus introduced by Minister Robertson, opposed to a potential peak at 26% if nothing had been done.¹³⁸ This mitigates some of the issues surrounding employment and people's ability to live well.

The flow-on effects for those with mental health issues need to be addressed. For those who experience the trauma of losing someone to the virus and other mental health impacts that the virus will inevitably cause, such as relationship breakdowns due to being forced into close quarters, or the converse, loneliness from being forced into isolation.

The Government did announce a mental health package in late April by then Health Minister David Clark. Having read the press release, I am concerned that it misses the mark of adequate mental health response and will leave people under the bodily health capability threshold. The

¹³⁶ *ibid.*

¹³⁷ Guilford.

¹³⁸ Robertson.

Health Minister issued a rather confusing press release which detailed that the NZ\$1.5million package announced in Budget 2020 will fund a NZ\$40million training programme for counsellors beginning next month to have them in the workforce by next year.¹³⁹ This move was criticised by the New Zealand Association of Counsellors as it does not help people who have an immediate need and fails to use the services of the 3000 registered counsellors in New Zealand.¹⁴⁰ While some of the economic impacts hitting people's lives have been addressed by the COVID-19 policy package, thus far, there is no immediate support for mental health.

The lockdown allowed a majority of New Zealanders to increase their thresholds for life and bodily health and the supplementary economic policies have attempted to keep New Zealanders lives relatively normal. The downturn in the affiliation measure could be permissible provided that it is short-term simply because this would allow for community transmission to cease, reducing the risk of contracting the virus when you go and see people; therefore, the short-term downturn has an increased benefit later down the track to the overall welfare baseline.

Reducing some of the capabilities to ensure the sustainability of life and bodily health seems permissible and necessary for the overall welfare baseline because without life and bodily health, the other capabilities are unable to be met at all. Without life and bodily health we cannot focus on those other things and we will be in a spiral attempting to rectify them if we choose to focus on all the capabilities at once. To achieve that welfare baseline over the longer term, more immediate action on mental health impacts from the virus will be necessary.

The Government found the right things to focus on in the immediate. It did have negative flow-on affects, however, the policy has the potential to lead to the long-term promotion of the welfare baseline, provided they incorporate a supplementary mental health policy and continue the economic stimulus.

Question 2: Influences and Limitations

Crises are often sudden and unprecedented. The general public goods a government uses on a day-to-day basis will be forced to adapt to help society cope. Our public health system is an access good which adapted to tackle a pandemic. It did so to enable everyone to have a better chance of meeting the threshold for bodily health. If the health system had not adapted, it would have

¹³⁹ David Clark. "1.5 million people to get free access to new mental health services" *Beehive: The official website of the New Zealand Government*. 25 April 2020. <https://www.beehive.govt.nz/release/15-million-people-get-free-access-new-mental-health-services> (accessed April 27, 2020).

¹⁴⁰ Christine Macfarlane. *Media release 25th April 2020: Govt's mental health announcement "perplexing"*. 25 April 2020. <https://www.nzac.org.nz/assets/Uploads/Media-release-25th-April-2020.pdf> (accessed April 27, 2020).

drowned in patients. We saw this in Italy, as the virus swept through the country and overwhelmed their health system.¹⁴¹ To avoid this, New Zealand implemented level 4 lockdown to reduce 'the likelihood that the COVID-19 epidemic would overwhelm our intensive care capacity'.¹⁴²

On April 29 2020, the second day of level 3, where we had fewer restrictions, and more people back to work, New Zealand had only 2 new cases, as the virus had little chance to spread through the population.¹⁴³ So generally speaking the lockdown seemed to halt the spread of the virus throughout New Zealand.

During this health crisis, we do not have impacts on just the bodily health thresholds, but on many more. So how can we use the instruments of policy to positively influence the thresholds? We first have to accept a short-term trade-off of some of the policies for the benefit of long-term human dignity for those in society. Life and bodily health are being protected by ensuring people are less likely to transmit the virus and that our health facilities are not overwhelmed by those with the virus. Further to this, by shutting the borders, we are less likely to have people bringing it in from overseas. Those who do come into New Zealand from overseas are quarantined and monitored for two weeks before they can move to their place of residence in New Zealand.¹⁴⁴

Our health system was put into a position to flourish by diminishing the virus spread. Consider that 'good medical ethics should examine the ethical justifiability or otherwise of the policies and regulations under which the medical profession as a whole practice'.¹⁴⁵ Then in the strict medical sense, Dr Ashley Bloomfield, the Director-General of Health, provided the Prime Minister with advice that allowed for New Zealand to fight the virus almost into submission in the 5 weeks of level 4 lockdown. Considering the number of cases in day 2 at level 3, this has been a success for bodily health, however, it is not the only capability which makes up the welfare baseline.

When analysing what capabilities should be in the scope of policy development, I noted that several capabilities would have their thresholds negatively impacted by the level 4 lockdown. Bodily integrity, practical reason, affiliation, play, and control of the environment are negatively impacted but justified for the long-term impact. The policy of offsetting one capability for another could be justifiable if it allows for the long-term welfare baseline to be maintained. So, if the

¹⁴¹ Silvia Amaro. *Lacking beds, masks and doctors, Europe's health services struggle to cope with the coronavirus*. 3 April 2020. <https://www.cnbc.com/2020/04/03/coronavirus-italy-spain-uk-health-services-struggle-to-cope.html> (accessed May 1, 2020).

¹⁴² Guilford.

¹⁴³ Charlotte Gendall. *2 new cases of COVID-19*. 29 April 2020. <https://www.health.govt.nz/news-media/media-releases/2-new-cases-covid-19> (accessed April 29, 2020).

¹⁴⁴ Ministry of Health. *COVID-19 - Epidemic Notice*.

¹⁴⁵ Oakley. 50.

Government decides to do this, the question they have to follow up with is, whether or not they can influence the policy to maintain the thresholds in the long-term, and if they do not, then the policy may not be justifiable.

The Government can influence the situation through powers granted to it in legislation. Section 3 of the Health Act 1956 was the government's main tool used to influence the situation. It gives the Governor-General the power, on the advice of the Executive Council, to:¹⁴⁶

Add or omit from any of the lists of notifiable infectious diseases, infectious diseases, and notifiable diseases set out in Schedules 1 and 2.

Through the Civil Defence and Emergency Management Act 2002, the Government was able to enforce cohesive management of disaster relief. The Governor-General was empowered to add COVID-19 to the list of diseases, which then empowered the government to control the COVID-19 response. This was the main instrument of influence the government used.

Policy is only ever developed for foreseeable situations, and there were no significant legislative provisions to allow the government to act. So, the government had to influence the House of Representatives to enact provisions which gave legal grounding to the lockdown after the fact. The passing of the COVID-19 Public Health Response Act 2020 on 13 May 2020 gave the Government power to address the ongoing situation but also retrospectively legislated for actions already taken, that being the lockdown. The purpose of the Act is to ensure the government 'prevents and limits the risk of, the outbreak or spread of COVID-19'.¹⁴⁷

The influence taken by the Government in this area was significant and bizarre, however, in terms of fighting the disease, the intent was solely to reduce community transmission. This was achieved during the lockdown period. It was not without significant limitations. The government was able to overcome the legislative limitations very shortly after the lockdown, however, the impacts on other policy areas, as a result, have created an imbalance in the country's attention to necessary changes in legislation and policy.

In terms of limitation, scarcity dictates that the government can only spend so much. Various policies have needed to be dropped to ensure that the government can fund a COVID-19 response. The Government's original budget was scrapped in favour of a COVID-19 recovery one. It is unlikely the public will ever know what was in the original budget, however, it will have meant that a

¹⁴⁶ Health Act 1956, s 3(a).

¹⁴⁷ COVID-19 Public Health Response Act 2020, s 4(a).

significant amount of policy changes Ministries had worked towards were suspended in favour of a COVID-19 recovery.

The other part of limitation is to continue to promote freedom. This obviously did not continue to occur. In the last chapter of this thesis, we will delve more deeply into how limitation affects the freedom component of policy, however, as a brief analysis the Government went with a strong handed approach because it was able to save more lives.

Overall, the government's approach was balanced and fair. It was applied in a way which distributed the capabilities to everyone in the best way to protect everyone. Although it was very heavy-handed, it meant that more people's lives and health were protected. This occurred through protecting our vulnerable and ensuring that our intensive care capacity was not overwhelmed.

The Policy Summary

So, was all of the fuss between March 25th and April 27th necessary, and ethically permissible? Consider that 'the state has a duty to its citizens to let them freely choose their own ends and lead their own lives, even if in doing so they decide badly'.¹⁴⁸ Can we reconcile that with the idea that the government has to work towards a 'bare minimum' required for human dignity?¹⁴⁹ These two things are in constant conflict and are by nature paradoxical.

As with paradoxes, we can either find why the paradox is not true or accept a level of permissibility around its existence. In this case, we need to accept it and justify it in the following way: a government must always let freedom reign and allow people to choose their own ends where possible. There will, however, be times where this is not possible, and the government must step in and ensure that lives of dignity are maintained overall.

The permissibility of the paradox above is directly related to policy question 2 and the influence and limitations of policy. To find the golden mean we will have to accept trade-offs. The New Zealand Government traded off almost all of the capabilities to ensure that life and bodily health over the long-term was maintained. Our hospitals were not overwhelmed and resumed business as usual as soon as level 3 began. Overall, the policy was permissible. It needs some supplementary support (for mental health and affected businesses) to ensure the long-term impacts do not overwhelm the good that came out of the lockdown.

¹⁴⁸ Richard Kraut. "Politics, Neutrality, and the Good." *Social Philosophy and Policy* 16, no 1 (1999): 318.

¹⁴⁹ Nussbaum. *Creating Capabilities*. 32.

WHY IS IT VIRTUOUS TO FOCUS ON ACTIONS?

CHAPTER VIII

There are, of course, other ways we could analyse policy. Other ethical theories could be applied to public policy situations easily but will not necessarily be the best method of achieving wellbeing. Utilitarianism offers a succinct and topical answer as to how to address issues. The utilitarian may look at the level 4 lockdown and come to the same conclusion as the virtue theorist; which leads to the question, what makes the virtue theorist's approach unique? Is the utilitarian's method better?

This chapter will look at the same problem as last chapter, but through an outcome-based policy approach. Firstly, I will outline how an act utilitarian would approach the question of the level 4 lockdown, and secondly, I will show the practical ramifications, which mean that wellbeing is not promoted. This chapter is not so much an objection as a comparative analysis of the differences between an agent-centred approach and a consequentialist approach.

Virtue theory's focus on the capabilities can be measured by outcomes, however, outcomes are not the means to direct policy and resources. If governments are to help people live a better life then they need a fully formed concept of wellbeing. Consequentialist theories cannot provide a substantive concept of wellbeing if they are to focus only on outcomes because that ignores what it means to live well. A good life is different from good outcomes.

An alternative approach

Utilitarianism is a theory which argues for the maximisation of utility. To live a good life, the utilitarian argues is to live happily, so we need to provide the greatest happiness to the greatest amount of people.¹⁵⁰ This approach looks at the consequences of an action. If the action promotes happiness, it means that as many people as possible are living well. The consequences specifically consider the aggregate of happiness to all people in the society. If it makes more people happier than alternative outcomes or promotes the least amount of pain, it is the right action.¹⁵¹

To determine exactly how to work out what happiness looks like to maximise it, a utilitarian may want to include some of the virtues as well. Their desire is to live well, but preference and choice will always be on the utilitarian's list, as each individual is best placed to judge for themselves

¹⁵⁰ Mill. *Utilitarianism*. 10.

¹⁵¹ Mulgan. *Ethics for a Broken World*. 81.

as to what is good for them.¹⁵² So happiness may include a variety of intrinsically good things as well as firstly satisfying preferences. It is proportional:¹⁵³

Actions are right in proportion as they tend to promote happiness, wrong in proportion as they tend to produce the reverse of happiness.

Utilitarianism requires the individual to find where they can ensure pleasure outweighs pain – so you ask the question, what is the net value of pleasure, factoring in both short- and long-term factors? If it creates pleasure that is happiness, because pleasure and happiness are one and the same to the utilitarian.

Pleasure itself has a qualitative aspect. It is a scale: lower pleasures such as watching The Simpsons and higher ones, which could be reading Chaucer.¹⁵⁴ The difference is that some pleasures, and some things we do or achieve, will give us a greater sense of fulfilment than others. This results in the individual being more fulfilled because they satisfied their preferences. Watching The Simpsons is sometimes fantastic to do but it is unlikely you will learn anything. Reading Chaucer could be equally as fun, but you are more likely to get an appreciation of complex metaphors, or the nature of 14th Century England as a result. The quality of pleasure has a longer-term impact as a result.

Mill refers to the idea of ensuring there is equality in the harm principle. He codifies a method for ensuring that people are protected from unnecessary interference, just as we would not want others doing to us. We have to be very careful about getting involved in other people's lives. Mill notes that when someone interferes with someone else's liberty; they have unfairly interfered with them.¹⁵⁵ He notes that 'the only purpose for which power can be rightfully exercised over any member of a civilized community, against his will, is to prevent harm to others'; further arguing that 'his own good, either physical or moral, is not a sufficient warrant'.¹⁵⁶

Given the delicate balance between a utilitarian's freedom to choose their own preferences and the importance of not interfering in someone else's life, utilitarianism tidily lends itself to public policy development. Questions of policy become ones of maximising happiness for the people in the state and ensuring impartiality. A utilitarian would ask how do we promote the most happiness for people?

¹⁵² *ibid.* 109.

¹⁵³ Mill. *Utilitarianism*. 24.

¹⁵⁴ Michael J. Sandel. *Justice: What's the right thing to do?* (London: Penguin, 2009): 54.

¹⁵⁵ John Stuart Mill. *On Liberty*. (New York: Dover Publications, 2002): 63.

¹⁵⁶ *ibid.* 9.

Our approach would be to ensure that a significant majority of people would benefit from a policy, or that a minority benefits enough to outweigh the majority; this is because it is about maximising happiness. If there is enough benefit in terms of happiness to a small group that it outweighs the small amount of suffering to the larger group, it is still maximising happiness. This is the aggregate of happiness.

There, of course, would be negative trade-offs but for a policy to be effective, we must accept those negative trade-offs. Utilitarianism requires happiness for a society to be an aggregate. The people in our society would have to be given the best chance of living happy lives, not so different from the virtue approach to public policy. The focus of the policy questions is where we find the substantive difference.

We have already discussed the success of the lockdown in eliminating community transmission of COVID-19 in New Zealand, however, that was a virtue theorist's analysis. So how would the utilitarian approach it? They would need to ask some questions about what is good for people's happiness. Generally, being alive is accepted as a good, however, sometimes coming into existence can be considered a harm.¹⁵⁷ While Benatar's argument may have some relevance in the anti-natal movement, once people are born and existent it is concerning because we hold murder to be wrong, and these people are now alive. In asking what is good for people, we must hold life to be relevant.

If we hold life to be relevant once people are born, then our policy positions must ensure that happiness focuses on keeping the aggregate of people alive. This will be a relevant baseline when considering the COVID-19 pandemic. Utilitarian policy production focuses on the outcomes of the policy by making sure the aggregate of people has a reasonable level of happiness. From here they can make decisions around what their lives look like – this is not an uncommon concept to the virtue theorist either. Both theories focus on needs.

Virtue theory is more prescriptive in what people need, and happiness is, in a sense, a by-product. Wellbeing exists in satisfying the capabilities. Whereas a utilitarian's wellbeing is happiness itself. Happiness is both necessary and sufficient for utilitarian policy to work; you must have a net positive happiness in the community for it to be good policy.

¹⁵⁷ David Benatar. *Better never to have been: The harm of coming into existence*. (Oxford: Oxford University Press: 2008). 21.

Practical ramifications

Utilitarianism and virtue theory may often reach the same decision despite the different frameworks, however, it may not always be the best route to creating policy. By focusing on happiness utilitarianism puts a lot of responsibility on to individuals, which seems reasonable in some respects as individuals know better what they want than a government, however, they are not always resourced in every area. I still need access to a doctor when I break my arm, because I am not one.

My first assertion about the level 4 lockdown in New Zealand is that a utilitarian would not quite do exactly the same thing as Prime Minister Ardern, but they would do almost the same thing. It is completely undeniable that some sort of cessation of community transmission is necessary; and so, two things would have to happen for this.

Firstly, a reduction of people coming into New Zealand so the borders would have to close immediately – this happened; both the virtue theorist and utilitarian would agree on this. Secondly, for community transmission to stop we would have to stop visiting other people. This is the part that I think the utilitarian would do slightly differently. To allow the individual a bit more freedom and ability to enjoy life and promote some happiness, the utilitarian's level 4 would look more like New Zealand's level 3.

To give people some control over their lives, when the world is being decimated by a disease, the utilitarian would want them to be able to see other people, and not be confined home alone. Consider the concept of level 3:¹⁵⁸

Bubbles must stay within their immediate household bubble but can expand this to reconnect with close family/whānau or bring in caregivers or support isolated people. This extended bubble should remain exclusive

Businesses can open premises but cannot physically interact with customers.

Gatherings of up to 10 people are allowed but only for wedding services, funerals and tangihanga.

Physical distancing and public health measures must be maintained.

An exclusive bubble with other people would lean more into the utilitarian's concept as it retains some choice around who the individual can see.

¹⁵⁸ New Zealand Government. Alert system overview. n.d. <https://covid19.govt.nz/covid-19/restrictions/alert-system-overview/> (accessed July 24, 2020).

The long-term social ills mentioned by Guilford, such as mental illness, and economic deprivation would have had their impact lessened.¹⁵⁹ Mental health would be better controlled as people would have access to close confidants to confide in about depressive episodes, anxiety, and other stresses. Hospitals would be able to treat some people for chronic and terminal illnesses rather than reducing majority of contact with patients.

Business would have some sort of trade and the economic impact on them would have been lessened, although they likely still would have taken a hit. Small gatherings could occur so people would be able to get some sort of social interaction. This would have a longer-term benefit to happiness and lead to fewer mental health issues due to social isolation and economic deprivation.

The utilitarian would consider the happiness of individuals over both the short- and long-term. It is a balance between reducing the contagion of the virus and ensuring some stability of life. The utilitarian model, while it may cause a slight increase in the number of deaths, will give people some social and economic sustainability in the long-term. The nature of happiness is such that for a government to allow people to live the happy life they can, they must consider the long-term implications and attempt to act now for the best interests of the future. This sounds particularly forward-thinking and it is because the utilitarian will want everyone to live as well as possible.

In the virtue theorist's analysis of the policy, I argued that the short-term goal of elimination of community transmission would need to be considered alone, and the long-term effects could be dealt with directly after community transmission ceased by supplementary policies. My rationale was based entirely on the view that the protection of people's lives and health was the most critical point. A utilitarian cannot do this.

While both a utilitarian and a virtue theorist will agree that maximising happiness and liberty will require people to be alive, however, the consideration of happiness ignores the nature of life and health as intrinsic goods. As such, 'utilitarianism does not take seriously the distinction between persons' and is unable to meet the obligations of a government to help people live well.¹⁶⁰ It is flawed from the outset. It is flawed because it fails to account for the fact that governments are obliged to help people get access to the things they need to live well. This is because access is not always equitable.

¹⁵⁹ Guilford.

¹⁶⁰ Rawls. 24.

There is a large value in focusing on long-term effects. Utilitarianism is built to do this very well. The COVID-19 response and lockdown policy are the results of a crisis. To focus on the long-term in a crisis can detract from the intrinsic value in things like the capabilities. We saw this during the lockdown when the opposition leader, Simon Bridges called on a focus on the long-term economic impacts of the virus, while the nation was still battling community transmission. His view that the lockdown was too long, and we needed to begin an economic recovery, was largely criticised due to its insensitivity towards the health impacts that the virus would have on people.¹⁶¹ In a sense, the New Zealand political divide and attitude towards COVID-19 came down to virtue theorists versus utilitarians.

The country's instinctive negative reaction to Bridges, which eventually led to his downfall as National Party leader, was due to the fact he did not distinguish people from the impacts the virus had. Meaning that he ignored the potential for lives to be taken by COVID-19 so that we could get the economy running and New Zealanders could return to normal lives. He undervalued their health because his logic is flawed as it does not directly consider the intrinsic value of life and bodily health.

Utilitarianism fails to use things which matter to people as the focal point instead it uses happiness and liberty as its primary focus. We need more than just that to live well. This is because 'the most glaring weakness of utilitarianism, many argue, is that it fails to respect individual rights', and individuals have a right to bodily health.¹⁶²

The 'obligation to judge what is good [for] society does not rule out the possibility that each individual is [obliged] to make her own best judgments after critical reflection about what constitutes her good'.¹⁶³ This would mean that when we are promoting happiness and freedom, while making policy, people should still go about their actions in a manner which continues to uphold that for everyone. This, in a sense, is like the harm principle. It means people must always act with the best of intentions for themselves and others. Virtue theory can easily do this as well. The key difference is that consequence is the primary driver for the action. Is it the consequences, or is it what the agent needs regardless?

¹⁶¹ Zane Small. *National leader Simon Bridges stands by divisive Facebook post that sparked leadership concerns*. 28 April 2020. <https://www.newshub.co.nz/home/politics/2020/04/national-leader-simon-bridges-stands-by-divisive-facebook-post-that-sparked-leadership-concerns.html> (accessed July 7, 2020).

¹⁶² Sandel. 37.

¹⁶³ Arneson. "Welfare Should Be the Currency of Justice." 517.

Utilitarianism can be short-sighted in a way. It forces human dignity to be an afterthought. Happiness and liberty are important, and this is why they are on the capabilities list, as senses, imagination, and thought, as well as control over the environment. Taking the virtue theory approach puts everything upfront and forces the trade-offs to be made across all things that are important to human dignity, and not leave others to chance. Policy is about people. The word itself is from the Greek *politiea* meaning citizenship.¹⁶⁴ The whole purpose of policy is to be for people; it should appeal to the very things that make us living beings capable of being citizens.

If we return to Simon Bridges' policy projections for the COVID-19 lockdown we see a version of utilitarian policy promotion occurring. He simply looked too far down the track and forgot to make allowances for those intrinsically good things that matter as a core part of developing an action. The consequences will not be the best, because while an outcome is where we have a steady economy, people's health is overlooked. As Tirole noted, 'we feel indignant when confronted...with injustice or behaviour that shows little respect for human life'.¹⁶⁵ Bridges forgot about what people needed in the immediate and allowed his mind to drift to the very real issues further down the track. While both are important, he ignored people's immediate needs.

Without knowing what good health looks like, we cannot accurately say that the best consequences were promoted. This is my idea of a baseline approach to policy by using the capabilities as a guide to wellbeing. People need access to healthcare and to be prevented from getting sick and being killed by the virus. Because not everyone has access to healthcare immediately and everyone has slightly different needs, there needs to be a method for the government to step in and supply access to that resource. This requires more exposition, as the permissibility of a perfectionist theory is what sets utilitarianism apart from virtue theory. We will look at this in our final chapter.

Utilitarianism as an approach to public policy leaves out a concept of human dignity and requires decisions around what it means to be human to be down to the discretion of the individual. Utilitarians fail to adequately acknowledge the nature of human dignity upfront, leaving their decision-making process void of respect for the distinction between people.

¹⁶⁴ *Pocket Oxford English Dictionary*. 11th Edition. (Oxford: Oxford University Press, 2013): 698.

¹⁶⁵ Tirole. 46.

To put people in the centre of policy as people who have needs, rather than individuals who need to make decisions for themselves, creates respect. The issue lies in the methodology behind the decision, and while utilitarianism can often get a similar or the same result as virtue theory, it fails as a process because of its lack of respect for the distinction between persons.

CAN WE JUSTIFY A PERFECTIONIST SOCIETY?

CHAPTER IX

Virtue theory naturally creates a framework for assessing a good life, and we can look objectively at someone's life. When we start to apply virtue theory to public policy so that we can ensure people obtain and maintain certain capabilities, we assume that the government holds a conception of wellbeing. Using the virtue theory view of the person, a government can direct policy to target wellbeing. To refer to an ideal person as a means of guiding policy then starts to look like government overreach. Is this fair? We need to place some sort of limitation on the government so it does not overreach and inhibit our choices to make us live to that ideal.

In this chapter I will cover three ideas; firstly, what perfectionism is, and why virtue theory is perfectionist; secondly, I will introduce the asymmetrical objection to virtue theory's perfectionism; and, thirdly, I will show how the limitation principle in my theory for public policy development defeats the asymmetrical objection because it has a robust conception of liberty built into the concept. This chapter will tie the ideas of wellbeing in an objective setting and show how the policy advisor can enhance the decisionmaker's ability to choose good ethical policy which supports individuals without being overbearing.

Virtue theory faces an uphill battle in the political arena; how do you justify judging the way someone lives when it has no impact on anyone else. In public policy, the concept of the good does not intend to do this. It is a guide to help policymakers find out what people need to live the good life and then grant them access to their public resources that they own together with everyone else. While it may be a perfectionist concept, it enhances people's abilities to get a fair share in public goods.

The perfectionist's puzzle

It is a brute fact that something objective will have a right answer, and many wrong ones. Virtue theory is an objective moral theory. This is known as perfectionism; it is 'a *maximizing* morality, which tells each human to... achieve the greatest perfection he can'.¹⁶⁶ Virtue is perfectionist because it is a practice which requires meeting standards of excellence.¹⁶⁷ To reach eudemonia we have to do what the virtuous person would characteristically do in the circumstances,

¹⁶⁶ Hurka. 55.

¹⁶⁷ MacIntyre. "The Nature of the Virtues." 127.

for the right reasons, in the right way, at the right time. Our intent has to be to ensure we are promoting the best virtue we can, and in meeting these conditions we have acted well.¹⁶⁸

Outsiders can objectively assess our decision-making processes to see if we have acted with virtue in a balanced way. Virtue theory as an agent-based theory puts all of the assessment onto the idea that 'an action is right if it is what a virtuous agent would characteristically (i.e., acting in character) do in the circumstances' because it appeals to the *perfect* agent.¹⁶⁹ It is perfectionist because it requires you to meet an ideal.

In public policy and political philosophy, perfectionism can be thought of as the opposite of the idea that the 'actions of the state must not be based on assumptions about what is ultimately good or bad for human beings'.¹⁷⁰ As virtue 'implies an objective conception of goodness and of the good' the conception of wellbeing for the individual is either right or wrong.¹⁷¹ The government then holds a conception of wellbeing on behalf of the individuals. In my view, this is only the means to guide the decision to allocate resources and not any licence to prescribe a life to people.

Perfectionism is subject to many criticisms, the most challenging for a virtue theorist is attempting to resolve a version of virtue theory to public policy and government with encouraging freedom and liberty. Because objectivity will have a right and wrong answer, opponents of perfectionist theories like virtue theory, will be concerned about assessments being passed onto individual's actions when/if they make different choices from what the theory would expect. If the government concludes $x + y = z$, then if someone decided to buck the trend by going $x + y = p$, then what happens?

To illustrate the nature of perfectionism in virtue I want you to consider the Sully case. Chesley Sullenberger, known as Sully, was a US Airways pilot who successfully landed an Airbus A320 in the Hudson River in New York after a bird strike at 2,800 feet which took out both engines. As Captain of the plane, Sully was faced with the decision to divert to Teterboro or Newark Airports, attempt a return to LaGuardia, or land in the Hudson River.

Sully judged the return to LaGuardia as impossible. As a student pilot myself I can understand this decision; the plane's altitude was too low to sustainably make the turn and retain enough altitude to make it to attempt to land, let alone make it to the airport. Sully, controversially,

¹⁶⁸ Georgios Anagnostopoulos. "Ancient Perfectionism and its Modern Critics." *Social Philosophy and Policy*. 16, no 1 (1999):198.

¹⁶⁹ Hursthouse. 29.

¹⁷⁰ Kraut. "Politics, Neutrality, and the Good." 317.

¹⁷¹ Anagnostopoulos. 198.

judged that a diversion to Teterboro or Newark Airports was potentially unsustainable, and chose the Hudson. No one died in the landing in the frigid Hudson that winter morning.

In the aftermath, an investigation attempted to conclude through simulator modelling, with real pilots, that Sully could have made it to either Teterboro or Newark Airports. During the simulations, when the bird struck the engines, the pilots immediately diverted to the alternative airports. In providing a defence, it was noted that the reasonable person would have had a delay to weigh up the four alternatives.

The black box recording showed Sully had a delay of 35 seconds in which he made this decision. It was successfully argued that those 35 seconds then should be included into the simulator to give an accurate depiction of real life, rather than a hindsight analysis of what may have been a better alternative. In this time Sully was using *phronesis* or practical wisdom to balance his decision. The simulations were re-run, and after the birds stuck, the pilots waited for 35 seconds before attempting a diversion. Both diversions failed, and the simulator crashed twice, deeming the Hudson to have been the decision which was most likely to save lives.

In this case the state reaction was $x + y = z$, and deemed Sully's decision wrong because he had chosen p . The fortunate aspect is that the inquiry allowed Sully to showcase that p was the correct answer and the state was wrong. Should anyone have to justify their decisions when they saved 155 people in a situation where the same number would normally have been expected to die? In a sense the right decision was in conflict with liberty, specifically, Sully's right to choose what to do in the emergency.

I have aimed to use this story to illustrate perfectionism; in this case, the freedom of thought was vital to saving lives. It was the government intervention and investigation, albeit more dramatized in the film than in real life, that denounced what was ultimately a good decision. Consider that 'in favourable conditions [people] can produce their own excellence directly, but they have less power over others', and this is true; therefore, a government cannot promote perfection.¹⁷² There is no reason, however, that a government cannot help people to achieve wellbeing, if they want to get there, provided they do not force them to reach wellbeing. This analogy is aimed to draw your attention to the fact that perfectionism requires liberty to ensure wellbeing is maintained and people flourish. It is because individual decisions cannot be extrapolated in the same way to state expectations; they are asymmetrical.

¹⁷² Hurka. 64.

In opposition to perfectionism is neutrality. The state is unable to hold a view on what is good for people other than to promote their freedom.¹⁷³ While this chapter will not be directly arguing against neutrality, it is the background in which the objection I will be discussing is set. Neutrality comes in various forms, such as Dworkin's theory which 'deliberately refrains from advocating any specific doctrine of the good life'.¹⁷⁴

We can get relatively comprehensive, with Mill's harm principle, which summed up that 'the only purpose for which power can be rightfully exercised over any member of a civilized community, against his will, is to prevent harm to others'.¹⁷⁵ Mill simply and swiftly resolves the conflicting freedom issues as well; you cannot do something if it inhibits someone else's freedom.

With these in mind for context, we turn to the asymmetrical objection to perfectionism. It poses some problems with the nature of freedom in perfectionist theories, and as a result, the virtue theorist's approach to public policy runs into hot water unless we can resolve this. We must preserve some sense of liberty and not dictate to people how to live. The next two sections will bring this together; the first will show that the asymmetrical argument allows a form of perfectionism in policy, and why; the second will show that the limitation principle of policy is designed to preserve and maximise liberty.

Our problems are not symmetrical

The asymmetrical objection to perfectionism, which argues in a nutshell that an individual is able to achieve perfectionism, however, when you introduce a government, they cannot achieve perfection for individuals; i.e. perfectionism is one sided and therefore not symmetrical. Hurka states that:¹⁷⁶

Past a point, each person's achievement of perfection must be his own. The same limitation applies to governments: They too cannot directly produce their citizens' good.

We have control over our own lives; but the government cannot control individuals.

Hurka continues by explaining that illiberal actions will attempt to force perfection by legal threats.¹⁷⁷ Effectively we create laws to force people in to being what we may call a model citizen. If this is the case, then all citizens would be presented in uniformity; however, reality does not work

¹⁷³ Kraut. "Politics, Neutrality, and the Good." 318.

¹⁷⁴ Nussbaum "Perfectionism and Political Liberalism." 5.

¹⁷⁵ Mill. *On Liberty*. 63.

¹⁷⁶ Hurka. 152.

¹⁷⁷ *ibid*.

like this, the moral conundrums we are faced with on a daily basis will differ from person to person. No amount of forced uniformity could reduce the natural occurrences of life - luck.

If you find yourself behind the wheel of a large automobile faced with a fork in the road, where continuing the way you should be going would kill 3 people, but diverting would kill only 1, what would you do? Now there are endless answers to this adaptation of the trolley problem, but what I want you to think about is the fact that no matter how much legislation there is, the decision requires the individual to think. No government can install the answer into someone's mind. Like Sully, regulations may guide you, but you need the freedom and time to think about your action. It is not the state's place to create obstacles, but to remove them.

Hurka goes on to quote Thomas Green who noted that governments doing their proper work 'seems necessarily confined to the removal of obstacles' which in terms of liberty is important.¹⁷⁸ Hurka furthers the argument noting that asymmetry is an argument for liberty, but more broadly, perfectionists must accept liberty for individuals to flourish.¹⁷⁹ It follows the idea that 'the state should not interfere with the choices made by citizens because their freedom to choose is one of the greatest goods available to them'.¹⁸⁰ Forcing virtue onto people cannot work because you take away liberty and virtue requires the liberty to choose virtues; in effect you take away part of someone's chance of living well.

I agree with Hurka's characterisation of the issues when applying the theory of individual morality and wellbeing to governance structures. This paradox is somewhat resolvable if we shift our focus from one where the government creates wellbeing to one where the government helps to offer a path to wellbeing. Because 'perfectionism and flourishing go hand in hand, and both are most often connected to a view about human nature or essence', the government cannot realistically achieve anything if it has no idea how people live.¹⁸¹

Our problem is essentially that liberty is required to live well, but if a government forces it, then liberty is inhibited. If we think about the Sully example again, we can see the difference in perceptions of the individual and a government. Lost in translation was the freedom of thought, particularly the necessary 35-second delay which allowed Sully to think. Green's quote hints at an

¹⁷⁸ Green. 209.

¹⁷⁹ Hurka. 153.

¹⁸⁰ Kraut. "Politics, Neutrality, and the Good." 318.

¹⁸¹ Anagnostopoulos. 197.

answer to this paradox; a government's work is 'the removal of obstacles'.¹⁸² This is how the capabilities direct government action through policy.

The capabilities are 'living conditions [that] deliver to people a life that is worthy of human dignity' and in the virtue theory approach to policy is wellbeing.¹⁸³ They can be obstacles to a life lived well. To ensure everyone is able to live well, we arrange our resources in a way that allows people the option of getting help to get to a minimum standard of the capability to go on and make decisions to flourish. This approach is designed to avoid the liberty problem as the boundaries are set up to give people as much choice as they can have in a society. The government then knows what the goal is for people and can support them to live well by enhancing their options and removing obstacles.

To answer the asymmetry objection we must do two things; firstly, show that the virtue theory approach to the capabilities promotes choice (which is to resolve the paradoxical accusation); and secondly, show that the theory holds a conception of liberty. Hurka notes that 'the objection is answered if the theory can affirm a strong although not absolute version of the liberty principle'.¹⁸⁴ Together these two parts should create a conception of where liberty exists and how, in principle, it can be exercised in virtue.

The asymmetry paradox concludes that perfectionist theories cannot work as they cannot force the good life onto people without inhibiting their liberty. The paradox is a misunderstanding of what virtue theory does; it is true of some other perfectionist theories, but the virtue theory approach uses the capabilities as a guide for governments to work out the good life and offer the ability to meet the welfare baseline. It is by no means enforced.

The capabilities by their nature are 'focused on choice or freedom', and so we shift the focus of virtue theory to help them establish a procedure for policy development.¹⁸⁵ There is no sanction for not accepting the good. Equally, the use of public goods to, at least, offer assistance to those below the baseline, would not affect those above the baseline as they are not the ones who need assistance. Due to the capability of control over one's physical and political environment, such policies to help people get above the baseline would be developed with input from those who need the assistance.

¹⁸² Green. 209.

¹⁸³ Nussbaum. *Creating Capabilities*. 30.

¹⁸⁴ Hurka. 156.

¹⁸⁵ Nussbaum. *Creating Capabilities*. 18.

Nussbaum notes that a ‘focus on the person makes a huge difference for policy’, which given the size of states is an impossible task to focus on anyone person.¹⁸⁶ This is why a state will focus on the ideal of a person so that it can deliver policy which actually benefits people. So shifting from the individual version of virtue theory to the policy-based one which I have advocated can be done in a way which avoids the asymmetry paradox, creates a method of developing policy for people.

If policy is about reducing obstacles, the capabilities approach in virtue theory can achieve this, because it is a shifted version of a perfectionist ideal. We need to work out what those obstacles are. The paradox need not confuse people because the state is creating policy in a way which promotes choice and allows people to refuse to take up assistance. It simply does this by using a method of what good looks like and what people are missing. By subtracting the two, the state is able to work out what to do to remove the obstacles. Without the capabilities there would be no method of assessing if people actually need something or not.

Keeping the state at bay

The idea of liberty is built into the limitation principle, which helps us answer the second part of the asymmetry problem. The challenge of the second part is to stop the state from forcing the ideal onto individuals, and allow them the freedom to continue to make their own decisions about how to act. To recap, the limitation principle is one of the balancing aspects of applying the capabilities and asks us *to find out what areas the government can influence to ensure that justice is distributed to those who need resources in our society, and what limitations apply*. The influence part pertains to the resources being used to achieve the capability; however it is the freedom aspect we are concerned about here.

We need to understand a bit more about what this means. We already know that it is ‘focused on choice or freedom’.¹⁸⁷ Hurka needs us to say what the liberty principle looks like to a virtue theorist to resolve the asymmetry problem. The nature of virtue has undercurrents of this throughout it. At an individual level, Hursthouse refers to ‘respectfulness’ as a virtue which respects autonomy.¹⁸⁸ At a broader level, the conception of liberty that the state needs to maintain is based around removing the obstacles.

¹⁸⁶ *ibid.* 35.

¹⁸⁷ *ibid.* 18.

¹⁸⁸ Hursthouse. 41.

So when using the capabilities, the state offers a platform of resources to try and bring everyone to a welfare baseline and from there they make their own choices. The GDP calculation illustrates this relationship well;¹⁸⁹

$$Z = \text{C} + I + \text{G} - \text{IM}/\varepsilon + X$$

Consumer spending (C) and Government spending (G) have a positive relationship with GDP (Z) – when both increase, GDP increases. If a government wants to enable increases in GDP, the G can be used to enable consumers to spend more thus increasing C. Since C is subject to consumers choices, then there must be some choice in the matter. A government which commits to policies which do not dictate to people how to live but give them a chance to live well, will be a government which has, by the logic of the calculation, policies where G and C both increase.

The underlying idea of allowing people the ability to be able to support the economy in which they live is the idea of the welfare baseline. This is because the ‘obligation to judge what is good for society does not rule out the possibility that each individual is [obliged] to make her own best judgments after critical reflection about what constitutes her good’.¹⁹⁰ The government can pour money into helping people live good lives but it is not entirely in their ballpark because freedom is an important good. To paraphrase Margaret Thatcher, **the government does not create lives, individuals do**, but what it can do is help make those lives better.

The liberty principle to the virtue theorist is another version of the golden mean; it is a virtue in itself between two vices:

Deficiency – Hands off: the point where people are consistently falling through the cracks and are not able to find the optional resource to bring them to the welfare baseline; and

Excess – Strong handed: the point where people feel coerced into taking up government help.

Once people reach the baseline, they will have a better chance of living a good life. This is because ‘the political goal for all human beings in a nation ought to be the same’.¹⁹¹ We should be able to

¹⁸⁹ Oliver Blanchard. *Macroeconomics*. (Essex: Pearson, 2017): 70.

¹⁹⁰ Arneson. “Welfare Should Be the Currency of Justice.” 517.

¹⁹¹ Nussbaum. *Creating Capabilities*. 18.

access the same resource, but further, we should 'all should get above a certain threshold level of combined capability, in the sense not of coerced functioning but of substantial freedom to choose and act'.¹⁹²

People can make bad decisions, but so long as they are stable, the government should not intervene. Betting half their disposable income on a horse with a broken leg would be a bad choice, but if they had the security to do it, there is no reason the government should stop them. If it were an addiction, the health capability would require the government to invest in addiction services to help them through the problem, however it would be up to them to take up the services. Where pleasure harms something which is objectively good, it harms the person's wellbeing, however, this is the role of the individual to understand, and the government is simply there to ensure that people are able to focus on ensuring their lives are enjoyable rather than fighting for collective resources.

Liberty for the virtue theorist applying the capabilities to policy is in making sure that the policy is developed in line with the principles of a hands-off approach and a heavy-handed approach by balancing the two in each policy question. Hurka notes that perfectionist theories can, like many theories, undermine liberty but perfectionist theories, and in particular virtue theory, can do so systematically.¹⁹³ That is to say, that virtue theory disables liberty because it prescribes a life to someone and by the nature of its own system, liberty cannot be included.

I disagree with Hurka. What virtue theory, in particular, teaches the individual is a skill to dig deeply into a situation and balance the two vices of the virtue they are trying to exercise. For liberty, we actually have a system for drawing our attention towards the problem and attempting to confront it and resolve it before going on. This does not undermine it but instead, by making it a central part of the process, it ensures its protection and attention.

Like the GDP calculus, the whole idea of what the government is doing is attempting to enable further choices. Consider the idea that wealth, either of an individual or nation, is not an end in itself, but a means to be used to achieve noble actions.¹⁹⁴ Likewise the government acts as a means to allow the individuals to go out and achieve those noble actions. This must be done through promoting liberty because if the government does not promote liberty it is suppressing a virtue.

An example where we may interrupt people's freedoms is when freedom conflicts. Murder is the most obvious of these. Those who support neutrality, especially the Mill style of neutrality,

¹⁹² *ibid.*

¹⁹³ Hurka. 153.

¹⁹⁴ Nussbaum. "Aristotle, Politics, and Human Capabilities." 105.

would say that the harm principle sums up why not to murder someone. Borrowing a phrase from Billy Joel - **I don't care what you say anymore this is my life. Go ahead with your own life - leave me alone** – is a nice, and memorable, simplification.

While out clubbing, someone attempts to murder you because you slept with their husband. The reason Mill would find it wrong is because it is **my life**, in the purest sense, and you should be free to continue to live your life. Further, the state legislates that murder is illegal, primarily because it impinges on the freedom of another to continue to live.¹⁹⁵ Despite this, in theory, impeding the freedom of the murderer to murder, it is decided that invading another person's freedom to live is the limit. The description gives an account of what freedom is, something Hurka thinks perfectionist theories do not always do well enough.

I disagree with Hurka. In using the capabilities in virtue theory, we get this description of freedom. The thing is the perfectionist also thinks murder is wrong but not for the same reasons. Generally, perfectionist theories will have a set of value from which they will determine what a good life looks like. For the virtue theorist in the public policy sense, this is the capabilities. From there the theorist 'goes on to recommend political principles built upon these values', and balances this with what they can influence and limitations.¹⁹⁶ Within limitations, they balance the scarcity of the resource and the freedoms it impedes. To build the regulation against murder, the balance between being hands-off and hands-on, would tip severely in favour of a hands on approach. This is deploying justice, it is what is fair.

In regulating against the potential murder on the dancefloor, the conflicts of freedom would naturally tip in favour of not being murdered because of the capability of life, not *my life*, but life. Life in the sense that we are 'able to live to the end of a human life of normal length; not dying prematurely, or before one's life is so reduced as to be not worth living'.¹⁹⁷ It is a story about how we should have the opportunity to continue our life, even if we do terrible things, not just for our own sake but for those around us. The capabilities give us a richer description of why things are good.

It is necessary to point out that a bit of our liberty goes out the window when we live in a society with others. This is the 'indivisibility and publicness' that many of our public goods have, and these goods are the ones which we need to live with human dignity.¹⁹⁸ So, in society, we must

¹⁹⁵ Mill. *On Liberty*. 82

¹⁹⁶ Nussbaum "Perfectionism and Political Liberalism." 1.

¹⁹⁷ Nussbaum. *Creating Capabilities*. 33.

¹⁹⁸ Rawls. 266.

surrender our liberty to get the return on these goods; however, the amount is small. John Rawls, for example, saw 'perfectionism as the enemy of liberty and autonomy that are the birthright of all individuals in a just and liberal society', yet endorses the small surrender of liberty for the benefits of public goods.¹⁹⁹ No one person can control public goods because that would be unfair, so everyone has to surrender some of their control of them for the benefit of everyone.

Virtue theory and the capabilities combined do hold a conception of freedom that can help guide the state in deliberations on policy. This way policy makers can create systems to ensure that freedom in policy is maintained and the obstacles are reduced to living a good life. The state is often in the way of a good life and it should not be. When we understand freedom in this way and exercise it, we can ensure that the best lives are promoted.

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A split-second decision has huge moral outcomes. We have to be pretty sure we are right, like Sully in the Airbus A320. Our laws must enable freedom of choice and help us live well, so we need to trust that they are done for the right reasons. Without a conception of human wellbeing, we could not create policy which has a meaningful description of what is good for people. We must ensure that if we appeal to something we can still let people be people by being free to choose their own path in life.

The asymmetrical objection points out a large problem for perfectionism, however, it is not impossible to overcome. It simply requires a shift in understanding of why virtue is promoted. Initially freedom seems paradoxical. This is resolved simply by understanding that the government is not trying to provide a specific life for you, but to remove your obstacles from getting to it, and they need a concept of the good to do this.

We then need a more robust understanding of freedom and how to apply it. So we drill down into the limitation principle and we can see how the virtuous person would balance it with all the other conflicts it may have including other people's freedom. Freedom for the government is simply a balance between being too hands off or too heavy handed in attempting to produce the capabilities. The balance allows people at least a chance to live the good life.

¹⁹⁹ Arneson. "Perfectionism and Politics." 38.

CONCLUSION

Now, the end is near, and we are facing the final curtain. Virtue ethics creates a base for public policy to benefit the people of the society in which it is used. Yet this highly theoretical construct, that Aristotle began nearly 2400 years ago, still applies today. Our modern society has evolved and with an increased focus on people's wellbeing, we need a practical way of teasing the beneficial points that philosophy has, into a framework for development of policy for policymakers to employ to help people live their best lives.

The whole point of this thesis was to convince the reader that the only way to help people live well is to ensure that policy targets the very things that they need to live well. We do this in an Aristotelian way. Aristotle used virtues to guide actions in individual ethics. These character traits were supposed to guide us towards an action, and if we used the character trait in the right way and hit the bullseye the action was right.

In government it is only slightly different. The government needs to identify what people need to live well and target resources towards those things. They do this by using justice to distribute public goods and resources to people who need to be brought up to the threshold for a capability; once at the threshold for all capabilities, the individual has reached the welfare baseline.

At the beginning of this thesis, I mentioned the Wellbeing Budget of 2019. The idea of a government targeting wellbeing is, in part, what inspired this thesis topic. What I discovered is that a government needs to hold a conception of wellbeing to do this. The policies which come from the government to promote the good for people must understand what the problems are and why those problems exist. The capabilities can help do this because we know what good should look like and can bring people up to the threshold so that they live well. It is my hope that future wellbeing budgets will be able to be written to target wellbeing. The framework this thesis advances will be able to be used to assess the success of future budgets.

This thesis should have convinced you that the virtue ethical approach to public policy is best achieved through promotion of the capabilities. We ask two questions when looking at what to do. Firstly, how we can bring people up to a base level of welfare. Secondly, what limitations and influence the government has. Influence is the apparatus the government uses and limitation is balancing freedom of the people and scarcity of the resources deployed. We can help people to live better lives if we think about what they need and target our resources to help them live the best life they can, reducing the impact of bad luck on them.

The best life to the individual

To live well we have to act well. The right action teaches us to model ourselves on someone who flourishes, who lives the life of eudaimonia, which is wellbeing. Wellbeing then is the 'highest prudential good' as nothing else will ever be better.²⁰⁰ We pursue virtues because they help us to live well, but they also help us to obtain wellbeing. Things like pleasure help us lead happy lives, and things like courage help us to stay healthy, alive, and maintain our bodily integrity – things we need to survive with dignity.

The whole concept starts to sound demanding, however as we dig deeper a lot of these demands are just the pitfalls of bad luck. If it is not bad luck, we need to ensure that we have mastered the art of practical wisdom, phronesis, to see where the demands are and moderate our action to a reasonable standard. There is rarely a concept of should, but what we must do is never be virtuous beyond our own strength.^{201; 202}

Doing the best for everyone

Nussbaum's capabilities approach shows us what we need to live a life that is worth living. Without this, we would not have some of the things we need to live with dignity, but also, we would be so unhappy and live such a tortured life, it would not be worth living. Some people cannot get these things on their own, and by the nature of democratic societies in which much of the world lives we can fine tune how we use our resources to help people get what they need.

The development of the policy questions that this thesis proposes stem from attempting to help people get the basic things they need to live well, and often to survive. It is a framework which is 'focused on choice or freedom' in order to offer people the things they need but may not otherwise be able to get to live a good life.²⁰³

The examples of the lockdown in New Zealand show us how an agent-centred approach is able to help policy navigate for the good of the people. We can rely on a conception of human wellbeing which promotes needs and allows for further choice in policy settings. It is possible for governments to hold a view on this, provided it does not force people into it, just offers them the things they need to live a life well.

²⁰⁰ Badhwar. 4

²⁰¹ Anscombe. 65.

²⁰² Swanton. *Virtue Ethics*. 209.

²⁰³ Nussbaum. *Creating Capabilities*. 18.



A life lived well requires happiness, dignity, and morality. Not everyone can get this. Some of this will be down to individual choices and bad actions. Some of this will be down to luck, however, none of it should be down to a lack of reinvestment from the state. Tragedies can wreck a life through no fault of the individual. They can be the most virtuous person but through quirks of nature end up with a life marred by a single tragedy, unable to live well again.

This is the reason we use the public policy apparatus to help avoid those situations. The most ethical approach to public policy is to focus on the capabilities to ensure that people are less likely to live tragic lives, because they have the basics needed to live well. Of course, there will still be freak accidents, that cannot be controlled, however, focusing on the capabilities the state will reduce its role in creating tragic lives for people.

If we adjusted our method of policy development and adopted this framework, we would be able to develop policy in a way that serves people's basic needs. We would improve their capabilities so that people can function well and go on to flourish. This can be done without wasting resources. We already know what people need to live well, so we need to target those things and allow people to go on and live their lives, rather than hoping the outcomes will be right.

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