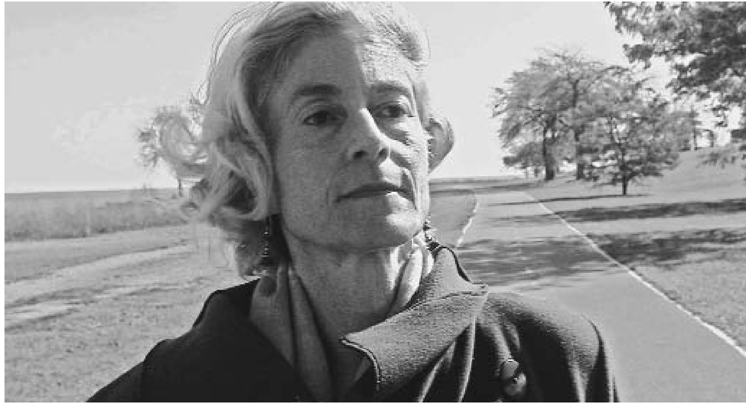
MARTHA NUSSBAUM

Justice



Immediately after I invited her to participate in Examined Life, *Martha Nussbaum suggested we conduct the interview while strolling along Chicago's lakeshore, a path she visits almost daily. It was a late fall morning with clear skies, and we walked briskly and purposefully, though we had no particular destination, spurred on by the chill in the air and Nussbaum's rousing elocution. Only later did I recognize what a fitting location a public park was for our discussion. As parents played with their children, elderly people took in the scenery, and locals passed by with their dogs, Nussbaum presented an impassioned critique of the traditional social contract theory, envisioning a society based on mutual care instead of mutual advantage.*

ASTRA TAYLOR: I've invited you here to talk about justice, an inquiry that takes us back to the beginning of philosophy, to Plato, who famously asked: What is justice? Perhaps you could begin by letting us know what motivates you to wrestle with this sort of topic.

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New Press, The, New York, ISBN: 9781595585059

MARTHA NUSSBAUM: For the first part of my career, I worked on ethical issues, not issues of justice. I moved into that area when I found myself presenting a paper at an international institute for development studies connected to the United Nations. There, learning a lot more about inequalities of opportunity around the world, I saw how urgent the issue of global justice was and how little philosophers and economists had done to confront it well. So I decided to focus at least part of my work, from then on, on that question.

TAYLOR: You make a good point in the beginning of your book *Frontiers of Justice* when you articulate why theories of justice need to be abstract, a point that relates more generally to this project, which is all about encouraging abstract thinking while also trying to make philosophical issues concrete and palpable. So let me ask you: Why do we need to generate theories, to think in abstraction, specifically when it comes to justice?

NUSSBAUM: Theories of justice need to be abstract because if we remain immersed in the prejudices of our immediate time and place, we may create theoretical structures that are unfair to people in other places. So we need to rise above the details of our immediate situation and create theories that have the power to cover many different times and places.

But when we do that, there's also a risk, and that is that we will be too abstract. We'll forget some very important things that the real world contains. So we always have to keep testing our abstract theories against the real world and asking ourselves, have we forgotten something very, very important? So for example, for a long time theories of justice simply forgot about the family. They created theories that were fine for the big political space outside the home, but because they weren't thinking much about women's lives, they didn't see that there were justice and injustice inside the family as well. And of course, that was true all along, and the theories were therefore too

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abstract, or abstract in the wrong way, because they did not zero in on the tremendous injustice and inequality of opportunity that goes on in the family. So that's an example of how a theory can be abstract in the wrong way. When we notice that we have to correct, we have to go back to the real world, look at the problems it contains, and then come back to the theoretical plane with a new theoretical structure.

TAYLOR: That makes sense. So is this the work of philosophy?

NUSSBAUM: I think a lot of it is the work of philosophy. But philosophy, of course, has to be responsive to people who are actually struggling for justice. So in this case, the feminist movement was a very important catalyst for philosophy to do better work. Philosophy also has to know something about economics and has to know about history. So philosophers may be the ones that do the abstracting, but they have to be in conversation with people in these other disciplines.

TAYLOR: Do you think we're making progress on this front? Are our theories, specifically about justice, improving over time?

NUSSBAUM: Well, you know, I think the funny thing is that things were better longer ago in some way, because Aristotle had the ingredients of an idea that I think is very powerful. And that is that it's the job of a good political arrangement to provide each and every person with what they need to become capable of living rich and flourishing human lives. Now, of course, he didn't include all the people: he left out all noncitizens, which meant all women and slaves and some agricultural and manual laborers. It took the Stoics, who came later, to introduce the idea of human equality. When you include everyone, you have to change all the structures, as I said. But he at least had that idea of supporting human capabilities that's the foundation of my own approach.

Now then, in the seventeenth and eighteenth centuries, a very

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powerful new approach came on the scene and that was the social contract approach: Hobbes, Locke, Rousseau, Kant. The social contract approach was inspired by the background culture of feudalism, where all opportunities were distributed unequally to people according to their class, their inherited wealth, and their status. And so what these theorists said is, try to imagine human beings stripped of all those inherited advantages, placed in what they call the "state of nature," where they had only their natural bodies and their physical advantages, and try to imagine what kind of arrangement they would actually make. Because then we'll see that the artificial advantages of power and wealth are gone, and only the body is there, which is pretty much the same for all people, and so they will choose a certain kind of more equitable political arrangement.

Now that was a wonderful idea, and I think it really illuminated the structure of justice for a very long time. But, of course, they made certain assumptions that aren't always true. They assumed that the parties to this contract really are roughly equal in mental and physical power. Now that was fine when you're thinking about adult men with no disabilities, but as some of them already began to notice, it doesn't do so well when you think about women, because women's oppression has always been partly occasioned by their physical weakness compared to men. And so if you leave out that physical asymmetry, you may be leaving out a problem that a theory of justice will need to fix. But it certainly does not do well when we think about justice for people with serious physical and mental disabilities. And in fact some of the theorists who noticed that said this is a problem, but we'll just have to solve it later. We'll get the theory first, then we'll work on this problem at some other point. Well, my thought is that this is not a small problem. There are a lot of people with serious mental and physical disabilities, but not only that: it's all of us when we're little children and as we age. And the populations of the world are aging, so the whole lifespan of a person in the old days with a physical or mental disability may have been shorter than the span

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that some of us will spend when we are aging with serious disabilities of our own.

So this is a vast problem. How do you think about justice when you're dealing with bodies that are very, very unequal in their ability and their power? And perhaps even harder: How do you think about it when you're dealing with mental powers that are very, very unequal in their potential? And I think this is a really serious political problem. We have only just begun to understand how to educate children with disabilities, how to think about their political representation, how to design cities that are open to them. I mean, the bridge we walked across to get to this path, a person in a wheelchair can go over that bridge, but, you know, fifty years ago that would not have been the case. There would have been steps and that person could not get to see this beautiful lakeshore. So we've just begun to think about these things, and we have to have theories that help us think better.

TAYLOR: So the traditional social contract approach looks at people with disabilities in terms of what they contribute or what they offer in terms of mutual advantage?

NUSSBAUM: Yes, the contract approach, when thinking about mental and physical disabilities, wants us to ask, "How much do these people contribute to our gross national product and how much do we pay to educate and sustain them?" Well, usually those figures don't balance out. To educate a child with Down syndrome and to care for all of the physical needs of that child will actually be very expensive. And that child will not repay, in economic terms, that input. But that's why thinking about the contribution in such a way is much too narrow. Children with Down syndrome contribute immensely to our larger culture as members of families, as friends—and even as members of a political community, because adults with Down syndrome are voters—they're able to participate in political life. And they also contribute simply by showing their lives and showing the dignity of a life

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that can overcome great disability. Children who are mainstreamed along with a child with Down syndrome really understand something about the diversity of humanity and its capacities for overcoming difficulty that will stand them in good stead as they get older and encounter similar disabilities themselves and others. So once again, thinking about these people who have lifelong disabilities helps us—each and every one of us—think about our own bodies as we age and become physically and cognitively impaired ourselves. Once again, we don't want to say about people who are aging, "Oh, well, let's see how much they contribute to the economy." We want to say there are different kinds of contribution—life experience, understanding, just being there as who they are and being objects of love in families—that enrich all of our lives.

TAYLOR: In a moment, I want to ask you about the other populations that are, you argue, left out by the traditional social contract model, namely, people in other countries and animals. But first, I want to make clear just how relevant to our lives this topic actually is. It may seem like we're discussing some obscure philosophical proposition when, in fact, the social contract is really part of everyday ideology. Can you talk about that?

NUSSBAUM: I'd be happy to. The social contract tradition is, of course, an academic, philosophical tradition, but it also has had tremendous influence on popular culture and our general public life because every day we hear things like, "Oh, those people don't pay their own way" or, when advocates propose supporting some new group of people, "Well, they'll be a drag on our economy." So the idea that the good member of a society is a producer who contributes advantage to everyone—that is a very live idea. It lies behind the decline of welfare programs in this country. I think it lies behind many Americans' skepticism about Europe, about European social democracy. You hear terms like the "nanny state" as though there is some-

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thing wrong with the idea of maternal care as a conception of what society actually does. We also see it in another way, in images of who the "real man" is. The "real man" is sort of like these people in the state of nature. He doesn't deeply need anyone. He isn't bound to anyone by ties of love and compassion. He is the loner who can go his own way, and then out of advantage he'll choose to have certain kinds of social arrangements.

TAYLOR: I think your observations reveal the power of ideas and the influence of philosophical thinking on daily life. It's also good to remember that philosophers are not always mavericks challenging the prevailing assumptions of their time; being human, all philosophers have blind spots and many have provided eloquent rationalizations and defenses of the status quo, as the earlier example of Aristotle shows. In any case, as I mentioned, you argue that there are two other populations left behind by the social contract approach. Could you talk about them now?

NUSSBAUM: The traditional social contract theory assumes a rough equality in both physical and mental powers among the people who make the social contract, imagining, basically, roughly equal, adult, male bodies capable of functioning pretty well and possessing rationality, language, and so on. Now this leaves out, very obviously, people with severe physical and mental disabilities and the part of "normal" human lives that involves dependency, when we are very young or aging and need care. But in a more subtle way it leaves out people in different countries. For example, one of the most severe deprivations of poverty in developing countries is nutritional and physical disadvantage. The people of the world are just not equal in physical and mental power because even before they're born, maternal malnutrition has affected their physical capacities, and there's such a large proportion of the children of the world who do not have access to adequate nutrition. So we really have large numbers of people in the

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world who are unequal in physical power because of their nation, because of the poor situation into which they've been born. Thinking about global justice includes having to think about that.

And then we finally have nonhuman animals, and I'm very interested in having a theory of justice that includes them. I think that nonhuman animals are entitled to have decent and flourishing lives. Now, of course, some nonhuman animals are very powerful, but let's face it, we dominate them. And the whole point of the state of nature was to say that no one can really dominate—that's why you have to make a fairly egalitarian bargain. But, with nonhuman animals, we dominate them. We have totally won that battle, as it were, and we've created a world in which they exist in fairly restricted places, and whenever we want to we can restrict that sphere still further. Even a creature as powerful as an elephant is not equal to us in power, and that's a fact. So we can't presuppose this rough equality of power if we're going to have the right kind of theory that includes nonhuman animals.

And I think these three areas are the frontiers of justice. I call them that because I think they are now the places where we're breaking new ground in the theory of justice. I think we've done pretty well with a lot of the older problems, problems of class, of status, and even with equality of gender. We at least have theoretical structures that handle those problems pretty well now. We know what it would be to correct those problems. But with these three issues the theory is under a new kind of pressure and we can no longer rely on the old theoretical structures. So I think we need to think again. And when we do, we may find that this will reshape all of our thinking about justice.

TAYLOR: It seems obvious that people have motivations other than mutual advantage when they enter into relationships. Why does the social contract model ignore this?

NUSSBAUM: Theorists of the social contract made a simplifying assumption that people only cooperate for the sake of mutual advantage, and they didn't necessarily deny that people have, in real life,

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other motives for cooperation. But they thought it would be simpler if you could use the minimal assumption, that it's only advantage people are looking for, and see whether you can get an adequate theoretical structure out of that.

Now, actually, I think that just didn't work. You really need to record and include in your theory the fact that people cooperate for love of one another, out of compassion, out of respect for human dignity in one another, but also just simply out of love of humanity. All those things are real, but they're also theoretically important because they show us why we would want to create a society that fully included people with mental and physical disabilities. Now, mutual advantage cannot answer that question because many, many people with mental and physical disabilities do not repay, by their economic input, the expense that we take in caring for them—medically caring for them and then educating them adequately. Those who say, "Oh, those people don't pay their own way"—well, that kind of thinking is what has made it very difficult to solve this problem politically. That's why we need to build into our theoretical structure itself the fact that just love of a person is an adequate reason to include that person in one's political structure and as a full equal.

So the social contract theory is not meant to be a total account of human nature; it's meant to be a very simple one. And so they try to rely on very thin assumptions, and the assumption is that people cooperate for the sake of mutual advantage. Unfortunately, however, this gives us a theory that's much too thin to include all that we want a theory to include. We need to include beneficent and compassionate motivations, and we need to include the relationships in which we stand to one another. If we think of these people as isolated, anatomic beings in the state of nature, we don't get a rich enough sense of what they're trying to build, which of course includes relationships very, very prominently.

TAYLOR: Let's move beyond the contractual model and get into the capabilities approach, which you've been developing for many years.

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NUSSBAUM: The capabilities approach, as I've developed it as a theory of justice, begins with the idea of the dignity of a human being. Now, we'll get to animals later, but as a first point we begin with an idea that all human beings have an inherent dignity and what they require is life circumstances that are worthy of that dignity, which I believe is equal in everyone. So what does that mean? Here I draw on Aristotle and I also draw on the young Marx, who talked about a life that is truly human (as opposed to subhuman, as it were) a life in which we can use all our basic human equipment in a way that's not just minimal but flourishing.

In my view, it's the job of a decent society to provide all the people in that society with the underpinnings of that decent human life. And the way I think of it is that all citizens should have ten central capabilities, which means they should all be ready to be able to go out and choose that thing (for example, health care, employment opportunities, political participation). If they don't use the opportunity, that's up to them. But the areas of life that seem to me particularly important when we think about the capabilities are: of course, life (it's the most basic one); bodily health; bodily integrity; the development of the senses, imagination, and thought; the development of practical reasoning; the development of affiliations, both more informal in the family and friendship but also in the political community; the development of the ability to play and have recreational opportunities; the ability to have relationships with other creatures and the world of nature; developing emotional capabilities—because I think a lot of theories leave out the fact that we don't want to have lives that are filled with fear, for example, so emotional health is another one on my list; and then, finally, control over one's material culture, some degree of control over property, and control of some sorts over one's workplace. It turns out that equal access to property rights is a very important ingredient of women's equality, and access to decent working conditions that give workers some control over their own labor is of urgent importance for all.

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Now all of that is elaborated a lot further in the theory, and my idea is that each country would elaborate it even more specifically in accordance with its own history and its own constitution-making process. So the idea, which I work out in a fairly abstract way, is that each nation would then put something like that into its constitution, articulating a sense of where the threshold for each capability lies. So each culture has to say, health has to come up to this level, the provision of health opportunities for our citizens has to meet this standard. The protection for bodily integrity has to come up to this level or it's not a minimally just society. So that's the basic idea, and then of course I get into a lot more detail about each element on the list, and with animals we have to shift gears entirely.

TAYLOR: So to be very clear—and to return to the original question—according to your theory, some basic level of social justice is achieved when a society's citizens are not denied these basic capabilities. Right?

NUSSBAUM: Yes, that's the minimum if we've set the threshold level correctly. Societies can then go on to ask how to handle inequalities that rise above the threshold level. That I do not discuss because getting everyone above the threshold is already such an ambitious goal.

TAYLOR: Let's go a bit more in depth with the capabilities approach, which emphasizes what people are able to do and to be. What is new about taking such a perspective and why is it necessary?

NUSSBAUM: It is not so new in philosophy. As I said, Aristotle had many of the ingredients of the idea. In international development economics, however, the approach came to prominence, in the work of my collaborator Amartya Sen, as an alternative to theories that measured the quality of life in a nation by looking only at GNP per capita. That simple approach did not even look at distribution, so it could give high marks to nations with huge inequalities. By focusing

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on the social contract approach in *Frontiers of Justice*, I am, by choice, focusing on a subtle and admirable opponent, having already had my say about the cruder and less admirable views that currently dominate the development debate in my earlier book *Women and Human Development*.

TAYLOR: It occurs to me that the enduring appeal of the social contract approach may be partially attributed to the myth of man in the state of nature. This very simple origin story is a powerful thing and an important reason why this theory is so pervasive and persuasive to many. Can you think of a new founding myth that would convey the essence of the capabilities approach in an equally direct, cogent way?

NUSSBAUM: Well, you know, my theory is antimythical in the sense that it insists on looking at real people in their historical and political conditions. Only in that way can we see the obstacles that stand between them and their really being able to go out and choose the capabilities on my list. So I open the book *Women and Human Development* with two real-life stories, both of poor working women in India, and I look at how the governments of the two states in which they live (Gujarat for one, Kerala for the other) have enabled them to attain those capabilities or have not done so. I keep returning to real-world examples all through the book.

TAYLOR: You mentioned Aristotle and the young Marx. What did each of these thinkers bestow to you and how did you incorporate their lessons into the capabilities approach?

NUSSBAUM: Aristotle was the topic of much of my earlier scholarship since I began my career as an expert in ancient Greek philosophy, so he is important to me for many things, but in this connection he supplies the idea that the purpose of government is to put people in a position of capability to lead a flourishing human life. Part of this

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idea is the crucial insight that the important things in life are plural and not singular, so we don't want one single measure of the quality of a human life; we want to look at each area separately and make sure all the areas are going well. Marx supplied the idea that what we are after when we do this is a life that is truly human, worthy of human dignity, and that there's a way of merely living that is not worthy of our humanity.

TAYLOR: By inviting thinkers to take a walk with me, to talk about their ideas out in the open like this, I'm trying to illustrate philosophy's connection to urgent real-world dilemmas, problems at the heart of human existence, on both the personal and political level. That's why I chose the tagline "philosophy is in the streets" for the film. So one reason I was keen for you to be part of this endeavor is your commitment to addressing issues like global poverty, to combining theory and practice. Could you talk about your experiences in India, which I understand had an immense influence on your intellectual trajectory? I'd also like to hear about the capabilities approach's impact in the realm of international development, as I want to make sure people realize that the ideas you've outlined are actually being put to use around the world and that your aim is social transformation.

NUSSBAUM: I focused on India because I wanted to show how my theories apply to a single nation that I could get to know well. I don't like it when people use scattered examples from different countries without understanding the history or internal politics of any. For *Women and Human Development*, I spent a lot of time studying women's groups in different parts of the country. But since I love the country, this has led to a lifelong engagement with it, and I recently wrote a book entirely about India's struggle with religious violence, *The Clash Within: Democracy, Religious Violence, and India's Future.* As for social transformation, that takes a partnership between theory and practice, so we've formed an international association, the

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Human Development and Capability Association, which brings people together across the theory-practice divide to think about new scholarship in this area but also issues of implementation.

TAYLOR: Let's take a moment here and shoot some cutaways. I want to focus the camera on your hand movements.

NUSSBAUM: It would be easier if I kept talking, as I tend to talk with my hands. I like moving around when I talk. I never like to talk sitting still. If I come into a lecture room and I'm at table, it's just dead. I like to stand.

TAYLOR: It's true that moving around, getting your blood flowing, walking like this, helps one think better.

NUSSBAUM: Well, it's also like theater. It is theater, lecturing. I used to be an actress at one point. I had a brief stint as a professional actress and I learned something from that.

TAYLOR: I had no idea. It's interesting you say you incorporate a theatrical element into your lecturing, as some seem to think philosophy should be undemonstrative, unadorned. But here I'm trying to dramatize philosophic debate, to make it resonate, by putting what is usually an academic discussion into a different context. You've written very inventive philosophic dialogues, for example, so it seems you've experimented with making philosophy more accessible and absorbing as well. Is there anything you want to say about that effort?

NUSSBAUM: Well, I love writing, and I did turn the first chapter of *Upheavals of Thought* into a dialogue in which my mother, my father, and I were characters discussing grief. It was performed by some wonderful actors in Sweden. I also wrote another one about patriot-

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ism and cosmopolitanism, with the philosopher Marcus Aurelius as a lead character, which was performed at a fund-raiser for one of Chicago's theater companies. I'd like to do more of that sort of writing, but even in my "regular" writing I try to be clear and to use examples in a dramatic way.

TAYLOR: I want to go back to a topic touched on earlier, nonhuman animals, as I'm very intrigued by your treatment of animal rights as an issue of justice and not just as an ethical or moral issue. Typically people, animal-rights activists and philosophers alike, focus on animal suffering instead of animal abilities and their potential to flourish. Why do you think that is?

NUSSBAUM: You know, a lot of people think that the problems of cruelty to animals are ethical problems, and that these are the sort of ethical problems that don't raise issues of justice. And it's tricky to talk to people about this because justice is a very elusive notion. But what I think is that whenever you have a creature that is an agent—one that's got a point of view on the world and is actively striving to achieve a certain kind of life for itself—then you already have the question of justice on the table because then things may block that effort to live a decent life. Sometimes it will just be an accident, but sometimes blameworthy action is the cause of a creature being blocked, and that's where we typically bring in the notion of justice. Creatures are entitled to be able to pursue a certain kind of rich and flourishing life, so I just think there's no reason to draw the line at the human race. Again, the very idea of agency and striving is enough to put the question of justice on the table. I'm unclear whether the creatures that Aristotle called the "stationary animals" like sponges and mollusks really are subjects of justice—that would be the gray area. And plants for me are not. They're of interest to us for many, many reasons; we have ethical duties to plants and the nonhuman environment but not duties of justice. But most animals—the ones who are

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moving around, desiring things, moving toward what they desire, trying to live—those are the ones where we do have duties of justice.

And of course, that means modifying my capabilities approach to justice in many ways, but I think the same basic list is actually still a pretty good one because animals don't just want freedom from pain; they do want healthy lives, lives with bodily integrity, the ability to move around in an environment that's pleasing to their senses. Animals want affiliation. There's a lot of good new research about the social bonds of animal communities, and even animals as simple as mice and rats have complicated social perceptions. So all of these things can be modified, and we can think of dignity in a new way. Dignity is not just a human affair. Nonhuman animals also have their dignity, and I think it's a useful notion when we think of what's wrong with the factory-farming industry, for example—namely, a creature that should have its dignity respected is being humiliated.

TAYLOR: There have long been appeals in philosophy to the intrinsic dignity of human beings, and many have denied animals this dignity. So I'm very pleased that you extend this attribute to animals. But I wonder what, precisely, you mean by dignity? And also, why make dignity central to your argument about justice?

NUSSBAUM: The notion of dignity is slippery, and I believe it has to be defined as part of a family of interrelated notions, including respect, capability, and justice. John Rawls was correct when he said that it has no obvious content all on its own. But basically, it is the worthiness of a living being, that which inspires our respect and awe.

TAYLOR: You mentioned the social contract approach not being an account of human nature earlier. But doesn't every theory of justice make implicit assumptions about human nature? If that's the case, then what is the view of human nature at the center of the capabilities approach? And should theories take into account and focus on

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human nature as it is, or is human nature something more malleable, something that theories should perhaps aim to transform?

NUSSBAUM: No, it's not true to say that all political theories are built on theories of human nature. No good one is, in my view. The reason for that is that all modern nations contain many different religious and secular views of life, each with their own views of human nature, and I agree with John Rawls that this means that our political principles must avoid taking divisive positions on such issues. So my capabilities theory is a normative theory of political obligation, not a theory of human nature.

TAYLOR: I don't want to forget to ask you about emotions. You've done a lot of important work on this front, for example, your book *Upheavals of Thought: The Intelligence of Emotions*, which you just mentioned. Why have emotions often been pushed to the sidelines by philosophical thinkers?

NUSSBAUM: Well, I think that it's an old story in philosophy, that there was a very, very long period where male philosophers were embarrassed by the emotions. It was a particularly English phenomenon, I think. But if you go back to the Greeks and the Romans, they talked about emotion all the time, and they had very powerful theories of emotion. But then there was a gap, and I think it was around 1916 when a few people in Anglo-American philosophy very courageously started writing articles on the emotions. But it was actually a result of feminism that this topic became part of the agenda for philosophy in a big way. Interestingly, it was men who had to begin it because I think that if women had done it first, they would have been laughed at—and they were. But there were people like Bernard Williams, for example, who began talking about the role of emotions in philosophy in a way that then gave permission for other people to go much further and talk about it more.

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TAYLOR: In your work, you also broach the topic of negative emotions, like shame and disgust, which you argue are a defense against our inherent vulnerability as human beings. Could you talk about vulnerability, which seems to be a theme that deeply compels you? Why is vulnerability a central aspect of your work and how does vulnerability relate to the problem of justice?

NUSSBAUM: Well, yes, that could be said to be the question that links all my work together. Vulnerability has a positive aspect: unless we are willing to be vulnerable to one another, we will not be capable of love, and the denial of vulnerability is one of the sources of aggression and violence. On the other hand, some types of vulnerability are just bad and should be eliminated—a child should not go hungry, women should not be raped, etc. So figuring out which sorts of vulnerability are good and which sorts a decent politics should remove is where my work on emotions connects up with my work on political justice.

TAYLOR: Very succinctly, if we could distill this conversation about justice to its essence, what would your message be?

NUSSBAUM: I guess at the heart of this discussion is the question: Why do people get together to form a society in the first place? And, really, it's not because they're afraid and they want to strike a new deal for mutual advantage; it's much more out of love—it's out of the love of humanity and the love of human dignity that they want to join with others in creating a world that's as good as it can be.

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New Press, The, New York, ISBN: 9781595585059