

INDISPENSABLE IDIOCY: COGNITIVE DISABILITY
AND THE SOCIAL CONTRACT

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*In memory of my cousin
Courtney Clifford.
“Tough times don’t last;
tough people do.”*

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CHAPTER I

INTRODUCTION: THE PARADOX OF PERSONHOOD AND A FEMINIST RESEARCH ETHIC

My dissertation examines the role of cognitive disability within social contract theory. Like many versions of social contract theory, my dissertation has a story about its origin. And like the origin stories of social contract theorists, it is part fact, part fiction.

Years ago on a warm spring day, long before I entered graduate school, I sat outside with a professor discussing John Rawls, human rights, and my brother's autism. Explaining the severity of his autism is difficult, but I attempted to describe his behavior to my teacher: a complete loss of language, self-injurious behavior that often resulted in trips to the emergency room, an erratic desire for socialization, and an inability to register normal feelings of pain which, at his worst, rendered him immune and unstoppable. And yet I was determined to configure him within a rights community even though he lacked many of the primary attributes that equal moral status requires.

At this juncture between reconciling my brother's disabled identity with a full spectrum of rights, my teacher interjected a suggestion: since my brother lacked a normal range of human abilities, perhaps it would be easier to think of him as having the same rights as the most intelligent ape or a beloved domesticated animal, like my dog. She continued to make parallels between my brother's low functioning autism and highly intelligent dogs: neither my dog nor my brother could speak through language, but they could both establish emotional bonds through a limited form of communication with others. The association between autism and canines was

familiar to me, made at times by autistic people themselves,¹ but it jarred with my sense of justice. For me, the assumption that my brother could be accommodated within a schema of rights more easily as my dog or at least dog-like said something irretrievably wrong—not with my brother, but the way we do justice.

My origin story captures the puzzle at the heart of my dissertation. It is the same dilemma that feminist critics of liberalism have been struggling with for decades. How do we secure political equality for all persons amid profound human variation and difference? In liberal political thought, political equality depends on the normative category of personhood. Liberal personhood seemingly secures universal inviolability and dignity for all human bodies. Defining personhood, however, is often a tool of exclusion, used to limit the ranks of political equals and to divide the human species into person and subperson categories. Under this framework, personhood is invested with normative qualities and these qualities both justify political equality and trigger political exclusion. These normative qualities often equate to requirements of cognitive capacities that enforce a threshold level of rationality that individuals must achieve in order to satisfy norms of personhood. Consequently, liberalism is pervaded by a *paradox of personhood*: personhood establishes political and human equality regardless of difference but simultaneously is defined by a cluster of cognitive capacities that subdivides the human species into person and subperson categories. For people with profound cognitive disabilities, like my brother, this exclusion is insoluble.

Liberal political thought has similarly been critiqued for its troubled history in regards to exclusions based on gender, race, class, sexuality, ethnicity and ability. Theorists have unmasked foundational assumptions within liberalism that implicitly code personhood as masculine, white,

¹ Temple Grandin is a prominent advocate with autism who uses her own sense of self to better understand the sensory experiences of nonhuman animals, including cows and dogs.

heterosexual, middle to upper class, Western and able-bodied. Normalizing one category of identity stigmatizes other groups as second class citizens, but it also affects our perceptions of the world and masks political phenomena as natural processes. Feminists, for example, have denaturalized the division between the public and private sphere, revealing how this epistemological separation depoliticizes and conceals injustices predominantly experienced by women. While feminist and critical scholarship continues to uncover epistemological biases in mainstream political theory, the demarcation between able-minded and cognitively disabled remains largely unchallenged, even within critical and feminist scholarship. Profound differences in intellectual ability continue to raise questions regarding political and even human status. Here, the difference is presumed real.

The depoliticization of cognitive disability continues in part because critical scholars remain complicit with epistemological assumptions that privilege cognitive competence as *the* principal marker of personhood. Excluded groups, such as women and nonwhites, attack the *erroneous* charge of cognitive incompetence as a way to gain political membership (Baynton 2001). Even physically disabled scholars and activists reproduce this exclusion by constructing a political movement that proves to others first and foremost that they too are rational and independent individuals (Snyder and Mitchell 2006; Anspach 1996). Using cognitive disability as a lens to evaluate our epistemological commitments, I argue that our existing critiques of liberal political thought have failed to be sufficiently transformative and that the category of person remains unmoored from requirements of cognitive competence.

More specifically, I argue that the marginalization of people with cognitive disabilities is not a natural response to impairment, but is instead an epistemological artifact that privileges rationality as the linchpin of personhood. Epistemological agreements are powerful: they

determine the boundaries of personhood, depict relations of domination as natural, and conceal histories and experiences that conflict with dominant accounts of the truth (Ackerly 2008; Mills 2005; 1997). Cognitive disability is a hard question for political theory because dominant conceptions of personhood require a threshold level of cognitive competence for full human status, and yet, people with cognitive disabilities *are people*. This tension pushes political theorists to consider that the norms for personhood, intended to be a political threshold to which a society raises its population, become a political ceiling rendering persons with cognitive disabilities ineligible for political personhood.

Norms of personhood not only affect academic conversations, but also undergird the social practices, policies, and beliefs that profoundly shape our daily existence. Foundational assumptions of what it means to be human delimit the boundaries of citizenship and impact the treatment of noncitizens. The exclusion of cognitively disabled people from the rights, privileges and responsibilities of full citizenship results in devastating public policies and fatal prejudicial attitudes. Historically, people with cognitive disabilities have been institutionalized, sterilized, sold at auction as property to the lowest bidder, and denied basic rights such as education and housing in the United States. Dramatic reforms have occurred in response, confirming the fact that societal reactions regard this treatment as inhumane. Legislation has included the *Education of All Handicapped Children Act* in 1975 and the *Americans with Disabilities Act* in 1990. Despite these legal mandates, the employment rate for people with disabilities has trended downward since the passage of the ADA (Barnow 2008) and tens of thousands spend years on waiting lists for community housing (Braddock 2007; Parish et al 2008; Parish, Rose, Andrews 2010). The fact that significant problems persist despite these legal transformations suggests that there remains ambivalence as to the status and rights of the disabled.

Epistemological constructions of personhood also effect individual perceptions, choices, and language. According to a recent survey, 52 percent of nondisabled Americans would rather be dead than disabled. Individuals with higher incomes and higher levels of education are disproportionately likely to prefer death over disability (Disaboom Survey 2008). Additionally, 90 percent of pregnancies with a prenatal diagnosis of Down syndrome end in abortion (Harmon 2007; Mansfield, Hopfer and Marteau 1999). In comparison, analysts of sex-selective abortion in India suggest that “almost 94 percent of the female fetuses of women receiving ultrasound or amniocentesis were *not* aborted” (Arnold, Kishor, and Roy 2002, 778). Assuming that the abortion rate of fetuses with Down syndrome has remained stable for the last twenty years, we can estimate that in the United States alone, there are over a million people with Down syndrome missing.²

The stigmatization of cognitive disability is also discursively imprinted in our culture as medical terminology once used to mark mental impairment—idiot, imbecile, moron, and retarded—easily transform into casual derogatory insults. Demeaning language is not isolated to popular culture, but also can be found in philosophical arguments. Licia Carlson describes how philosophers continued to use problematic language—such as idiot, moron, retardate, and imbecile—even after medical, educational, and political discourses had switched to more person-first language (2010). Our language and statistics suggest that Americans have internalized the belief that disabled people lack the essential features of personhood.

Norms of personhood that privilege rationality are ubiquitous to Western political thought. At the dawn of the Enlightenment, however, these norms were conjoined to the political

² My analysis of the number of missing people with disabilities is informed by Amartya Sen’s similar analysis of missing women; he estimates that social disadvantage accounts for over 100 million missing women across the globe (1992, 587).

commitment to human equality. Part one of this chapter thus examines the ways in which social contract theory pivots around the paradox of personhood. While social contract theory has been revived, revised, and rejected, the paradox of personhood continues to stalk liberal, feminist, and critical scholarship more broadly. Part two of this chapter broadly sketches the ways in which the paradox of personhood infuses the construction of cognitive disability, informs public policies and troubles contemporary self-advocacy organizations that specifically aim to overturn ableist prejudice. People with cognitive disabilities demand recognition as people but simultaneously draw on dominant conceptions of personhood that rely on cognitive competence as a marker of equal political status. Subsequent chapters of my dissertation undertake these dilemmas more fully, but I introduce them here to better situate the theoretical problems of personhood.

If the paradox of personhood thoroughly saturates our epistemological foundations that requirements of cognitive competence are a universally acceptable starting place for political theorists *and* self-advocates with disabilities, how can we be sure that freshly articulated normative commitments to inclusion are not inadvertently reproducing the problem of exclusion? Because theoretical concepts generally used to promote equality become harmful when applied to cognitively disabled subjects, this project requires a research method that destabilizes theoretical paradigms, key concepts, and the researcher's own ableist perceptions. Part three of this chapter thus explores feminist scholarship and feminist research methods as a way to uncover and confront ableist dilemmas.

I. Social Contract Theory & the Paradox of Personhood

While social contract theory is theoretically diverse, cognitive competence remains centrally important (Button 2008). For Will Kymlicka, “there is very little that unites the

tradition as a whole. [...] In a sense, there is no contract tradition in ethics, only a contract *device* which many different traditions have used for many different reasons” (1993, 196). Murray Forsyth similarly worries about the proliferation of multiple and diverse social contract theories: “Are we to conclude that the notion of the social contract is like an empty bottle, capable of being filled with any content?” (1994, 35) Forsyth concludes, however, that the “most obvious common element in the doctrine of the social contract is that the foundation of the true or authentic body politic is held to be a pact or agreement made by all the individuals who are to compose it” (36). This common element, however, fails to encompass the social contract theory of John Rawls as his theory does not hinge on an agreement. But what Rawls shares with other contract theorists is the requirement of rational capacities.

Requirements for agreement—that hinge on cognitive competence—ultimately undermine social contract theorists’ commitment to equality. While the normative contract purportedly establishes the equality of each and every person, its requirement of consent renders it incapable of recognizing people with cognitive disabilities *as* people. Locke’s social contract thus enacts the *disabled contract*—a device that denies political equality to the cognitively disabled and is not able to found political community on consent. The disabled contract thus *disables* the terms of normative contract and establishes the paradox of personhood. The disabled contract is thus driven by two rival commitments: equality and rationality. On the one hand, social contract theory establishes universal political and human equality. On the other hand, it enforces a threshold level of rationality as a gateway into personhood, thus treating people with cognitive impairments as unequal. While many theorists have rejected social contract theory, the paradox of personhood is difficult to resist, and thus informs and infuses political theory more

broadly. When feminist and critical theorists repeatedly attack, and yet, re-enact exclusion, we can see how the paradox of personhood is both troubling and seductive

Another way to conceptualize the social contract is a capacity contract: only individuals who possess a threshold level of rational capacity—enabling them to understand the terms of the contract, consent, and bind their future selves to contractual obligations—merit political membership as full persons. But there are important reasons why this contract should be conceptualized as a disabled contract, foremost of which is the constant and explicit use of disability within social contract theory to establish the contract’s scope and import. The assumption that disability has been unnoticed by social contract theory misses the paradox of personhood. “These problems,” as Martha Nussbaum describes in relation to disability, “cannot be ignored or postponed on the grounds that they affect only a small number of people.” Her depiction of the problem in Rawls, as a mere postponement, fails to grasp the depths to which disability already saturates our normative frameworks of justice. Referring to a *disabled contract* thus emphasizes the prominent role that disability in fact plays in social contract theory.

The double entendre of the disabled contract—that signals both the absence of disabled people *and* the failed promise of universal inclusion of the social contract—thus highlights the debilitating effect that the disabled contract has on the social contract as a device of justice.

Despite the fact that the social contract is defective, people with cognitive disabilities often surface as justifying the contract due to its emphasis on and protection of each and every person. Jean Hampton, for example, argues that Kantian contractarianism secures equal respect for all individuals, including the “elderly, physically handicapped, [and] mentally disabled children whom we do not want to rear” (2007, 12). John Rawls’s defense of social contract theory similarly promises expansive political membership:

If, then, we believe that as a matter of principle each member of society has an inviolability founded on justice which even the welfare of everyone else cannot override, and that a loss of freedom for some is not made right by a greater sum of satisfactions enjoyed by many, we shall have to look further for another account of the principles of justice. ([1967]1999, 131)

In this passage, the contract seems the ideal theoretical framework for locating a project dedicated to disability rights.

In spite of these claims, social contract theorists recognize the conceptual dilemma that cognitive disability poses to their theory of personhood and thus explicitly remove the disabled from the contract. For example, in *Political Liberalism*, Rawls “[puts] aside for the time being these temporary disabilities and also permanent disabilities or mental disorders so severe as to prevent people from being cooperating members of society in the usual sense” (2005, 20). Using the commonplace comparison of people with disabilities to animals, Thomas Scanlon removes people with cognitive disabilities from the realm of justice. He argues that a person with “mental illness or defect...must be seen...as simply a force to be reckoned with, like an animal” (1998, 280). Indeed, in the very same article in which Hampton uses disabled children to justify the contract, she later purges disabled bodies from the ranks of her contract on the basis of their inability to reciprocate (33).

Finally, I refer to the disabled contract to emphasize the double meaning of the disabled contract, as it refers both to the exclusion of the disabled from the ranks of personhood and to the ways in which it disables the universal terms of the contract device. Other theorists have similarly critiqued social contract theory for purporting equality while reaffirming exclusion, including Carole Pateman, Charles Mills, Brooke Ackerly, Christine Keating, Anita Silvers and Leslie Pickering Francis.

Pateman's sexual contract exposes the exclusion of women from political equality and the way in which the contract divides the public and private realm, thus depoliticizing the private realm and the women who populate it (1988). Mills argues that social contract theory is characterized by a prior racial contract, which denies political equality to nonwhites (1997). Ackerly uncovers the *epistemological contract* that undergirds social contract theory and theories more broadly; the epistemological contract is usually unarticulated and works to define the ways in which knowledge is produced and who is able to produce such knowledge (2008). In her examination of India's process of democratization, Keating outlines the postcolonial sexual contract in which gender equality is sacrificed to preserve fraternal cohesion (2007). Finally, Silvers and Francis take up the issue of disability within social contract theory and argue that dominant versions enforce exclusion (2005).

While these critics share a commitment to expose the shortcomings of social contract theory, they disagree over its emancipatory potential. Mills, for instance, encourages theorists to wrest social contract theory from social contract theorists in order to commandeer its egalitarian resources for social justice movements (2009b; 2008, 105). Looking specifically at the case of disability, Silvers and Francis contend that social contract theory is salvageable as long as we shift our understanding of cooperation away from a strict bargainer game, and instead conceptualize the presence of disability as bolstering the trust necessary in a contract situation.

Conversely, Brooke Ackerly contends that social contract theory is incapable of scrutinizing its own epistemological assumptions, and thus always at risk of encoding political phenomena as natural background assumptions (2008, 91). Carole Pateman similarly argues for the abandonment of liberalism because social contract theory "soon begins to undercut the conditions of its own existence" (2008, 234). I agree with critics like Ackerly and Pateman that

the contract is always already flawed, however, I see no easy escape from its epistemological entrapment of exclusion. Although deeply problematic, social contract's conception of personhood is difficult to resist.

The disabled contract continues to entice theorists because it is deeply engrained as an *epistemological contract*. Drawing on the work of Charles Mills, Brooke Ackerly argues:

An epistemological contract is an agreement among some people about what constitutes knowing and knowledge. An epistemological contract is a social contract *among some people with certain power* about which people or categories of people are 'persons' in the sense of being cognitive equals (Mills 1997, 59) and about the meaning of the basic terms used to describe their experiences (125). By controlling the categories of persons *and* the characterization of their experiences, the epistemological contract ossifies a 'set of power relations' (127). [...] But in fact, the epistemological move is in the use of an existing political power to reify that power through our knowledge systems. (2008b,)

Importantly, as Ackerly describes epistemological contracts, they are likely to remain invisible as they mask political decisions as background conditions. In other words, political exclusions appear natural. In social contract theory, the epistemological move that most often appears invisible is the division between persons and subpersons. Moreover, these divisions often fall back onto cognitive capacity. The reason that the disabled contract remains resiliently attached to the social contract is due to the ways that critical theorists remain wedded to cognitive competence as a necessary and legitimate requirement of political membership.

Critical and feminist theorists attack the *presumed* and *erroneous* assumption of cognitive inferiority as a way to garner inclusion. "Race, feminist, and queer studies," according to David Mitchell and Sharon Snyder "have all participated to one degree or another in a philosophical lineage that seeks to distance those social categories from more 'real' biological incapacities" (2006, 17). I would add that disability scholars and activists similarly remain complicit in this lineage when they collapse differences in impairments, thus equating all exclusions based on

disability, when in fact, these exclusions operate differently. Because political membership hinges on rational capacity and the ability to consent, the inclusion of nonwhites, women and the less severely disabled is predicated on their willingness to become signatories to the (cognitively) disabled contract, thus fortifying the depoliticization and dehumanization of people with cognitive disabilities. Understanding the exclusion of the cognitively disabled, however, requires a better understanding of cognitive disability itself. The next section examines the contested construction of cognitive disability and the kinds of political and social exclusions that people with cognitive disabilities currently experience.

II. An Essentially Contested Concept: Cognitive Disability

First and foremost, what exactly do I mean by cognitive disability and who are the cognitively disabled? Disability is an *essentially contested concept*. According to W. B. Gallie, “there are concepts which are essentially contested, concepts the proper use of which inevitably involves endless disputes about their proper uses on the part of their users” (1955, 169). Importantly, when a concept is an *essentially* contested concept, the defining provokes continual disagreement. While I offer a working definition of cognitive disability, I am ambivalent about defining these terms too precisely and too early. My ambivalence is widely shared. During the drafting of the Convention on the Rights of Persons with Disabilities (CRPWD), the most contentious issue draftees faced was whether to define disability (Kanter 2006). Concerned that any definition would exclude people with disabilities and also deny the fundamental fluidity of the concept, attendees ultimately rejected the task of defining disability. In the same spirit, a major purpose of this dissertation is to *destabilize* our conceptions of cognitive disability in order to challenge the supposed stability and abilities of the nondisabled.

More specifically, contestations over disability implicitly call into question what it means to be normal, healthy, and nondisabled. Thus defining disability always incites a parallel question: disabled in comparison to what or to whom? As definitions of disability change, our understanding of normal functioning similarly fluctuates. For instance, categorizing subjects as learning disabled may make little sense in communities with high illiteracy and few educational supports and explains the absence of cognitive disability as a category of persons before modernity (Goodley 2001). Defining disability is not an isolated enterprise, but also codifies normative citizenship.

Moreover, definitions of disability inform the types of contestations that ensue. Consider a “simple” definition of disability, such as bodily impairment. Two American examples defy this rubric. First, before the twentieth century, hereditary deafness affected a high proportion of the inhabitants in Martha’s Vineyard (Groce 1985). As a result, all Islanders were fluent in sign language and hearing residents easily moved between spoken and Island sign. Consequently, deafness was never a primary marker of difference. In sharp contrast, the eugenics era ushered in an expansive definition of disability. Eugenics is itself a contested concept with porous boundaries (Ramsden 2008; Stern 2005; Paul 1998). While I take up eugenics in more detail in chapter four, it can be defined roughly as the belief that hereditary markers determine behavior and its heyday occurred between 1900 and the fall of Nazism. Henry Goddard, a prominent figure in eugenics, created a new class of mental defectives—called morons—who were diagnosed through signs of poverty, sexual depravity, alcoholism, criminal behavior, immorality, and ethnicity (1927). For Goddard, at least half of whites and 90 percent of nonwhites were mentally defective. Illustrating how bodily impairment can be defined narrowly or more broadly, these examples testify to the contested nature, meaning and scope of disability.

Out of this terrain of contestation, scholars most often depict disability according to one of three dominant models: medical, social, and deconstructive. The *medical model* of disability sharply distinguishes between disabled and nondisabled populations, views disability as arising entirely out of bodily difference and deformity, and offers rehabilitation or eradication as the only solution. Although it has been under attack by disability rights activists for decades, the medical model continues to dominate disability discourses in the United States (Donoghue 2003).

The medical model of cognitive disability can be found in the definitions offered by medical or professional organizations, such as the American Association on Intellectual and Developmental Disabilities (AAIDD). “Intellectual disability,” according to AAIDD, “is a disability characterized by significant limitations both in intellectual and in adaptive behavior, which covers many everyday social and practical skills. This disability originates before the age of 18.”³ They go on to define “intellectual functioning” as “general mental capacity, such as learning, reasoning, problem solving, and so one.” IQ offers one way to measure intellectual functioning; a score between 70 and 75 indicates intellectual limitation. “Adaptive behavior”, the other component of intellectual disability, includes three areas of skill: conception (including language and literacy), social (such as interpersonal skills, self-esteem, and ability to follow laws), and practical (including daily living, occupational, healthcare, and travel skills).

Developmental disabilities encompass disabilities such as autism spectrum disorders (ASD), behavior disorders, brain injury, cerebral palsy, Down syndrome, fetal alcohol syndrome, and spina bifida. The AAIDD describes the difference between intellectual and developmental disabilities in the following:

³ http://www.aaid.org/content_104.cfm

Developmental disability is an umbrella term that includes intellectual disability but also includes physical disabilities. Some developmental disabilities can be strictly physical, such as blindness from birth. Some individuals have both physical and intellectual disabilities stemming from genetic or other physical causes (e.g., Down Syndrome, fetal alcohol syndrome). Sometimes intellectual disabilities can stem from nonphysical causes, such as the level of child stimulation and adult responsiveness.⁴

Thus defined, developmental disabilities are in fact more inclusive than the umbrella term that I employ in most of this dissertation, cognitive disabilities. By cognitive disability I aim to capture both people who have intellectual disabilities and people with developmental disabilities whose disability has an intellectual or cognitive component.

Although the AAIDD defines intellectual disability and entrusts professionals to determine diagnoses, they are also careful to note the limitations and pitfalls of erroneously diagnosing disability. Contestations over the control of medical authorities to define disability led disability rights activists and scholars to develop the *social model* of disability. Accordingly, “The medical view that social restrictions for disabled people were a consequence of physical dysfunctions was overturned by a radical move which argued that people with impairments were disabled by a social system which erected barriers to their participation” (Hughes and Patterson 1997, 328). Inspired by other social movements, the social model of disability follows a minority rights model, conceptualizes disability as a political identity, and focuses on political, rather than medical, solutions (Linton 2006). Rather than view disability as a natural condition, this approach indicts disabling attitudes, capitalism, and architectural barriers for constructing a subjected class of disabled persons (Shakespeare, 2006; Charlton 1998; Shapiro 1993).

The social model is best (and most often) understood in the example of the wheelchair user: the fact that the built world has been explicitly designed for people who travel on feet—and

⁴ http://www.aaidd.org/content_104.cfm

not wheels—causes the inaccessibility that people who use wheelchairs encounter. We could potentially design a world that allows all people to be mobile. Because the disability rights movement has largely been inspired by the social model of disability, this model is often the most prominent in legislation dedicated to promoting the advancement of disabled people, such as the *Americans with Disabilities Act* of 1990 and the Convention on the Rights of Persons with Disabilities (CRPWD). Draftees’ refusal to define disability in the CRPWD is in sharp contrast to the medical model of disability.

While the social model is ubiquitous within disability studies, scholars have raised increasing concerns over its ability to fully capture the experiences of disabled people (Shakespeare 2006; Mitchell and Snyder 2006). Most problematically, the strict focus on social conditions is insufficient when examining the full range of social and political barriers facing people with cognitive disabilities. The social model also seems unable to account for the lived experience of pain that often accompanies some kinds of impairment.

Because the CRPWD was written primarily from a social model perspective, it harbors some of these problems. For instance, in its strict focus on disabling societal structures, it fails to account for limitations arising from cognitive impairment itself. The CRPWD mentions the particular difficulties that some subgroups of people with disabilities face—including women and girls with disabilities, deaf, blind, and the very old—but overlooks people with cognitive disabilities. Consequently, when the CRPWD demands people with disabilities are given the power of choice, it ignores the fact that cognitive impairments impede individuals’ ability to make choices (United Nations 2008).

For these reasons, disability studies scholars have turned to *deconstructive* approaches, also known as critical disability studies. While difficult to define, these approaches challenge the

cohesiveness of disabled categories, allege that the specter of disability saturates all identities, and reemphasize disabled experiences of pain, embodiment and shame (McRuer 2006; Bell 2006; Davis 2002). According to David Mitchell and Sharon Snyder, critical disability scholars reject the strict dichotomy between impairment and disability that the social model erects and instead questions how bodies, disability and impairment are all equally discursively produced. Moreover, critical disability scholars place less hope in an identity based model of politics (2006).

All three models—medical, social and critical—appear in political theorists’ approaches to disability. The medical model of disability is most notably reflected in the work of Peter Singer who assumes that the poorer quality of disabled lives is due to bodily impairment rather than disabling societal structures. Singer attributes his own estimation of disability to “common sense” rather than dominant social norms (Singer 2005). Similarly, other political theorists treat cognitive disability as a medical misfortune with no recognition of the socially constructed and historically contingent milieu of disability (Rawls 2005; Scanlon 1998).

Feminist political theorists who have taken up disability issues are more attentive to social and deconstructive models of disability. Martha Nussbaum attempts to signal the constructed nature of able-bodied categories by bracketing “normal” in quotes or prefacing disability with “so-called” (2006). Iris Marion Young employs both a minority rights model to disability to argue for group rights (1990) and queer theory to challenge the disabled/able binary (2006). But both theorists’ approaches are problematic. Nussbaum’s bracketing is undercut by her assertion that individuals with profound cognitive disabilities are tragic misfortunes outside the bounds of justice (181); while Young’s theoretical use of physical disability to displace able-

bodied stereotypes reinforces norms of productivity and does little to counter the marginalization of cognitive disability (2006).

Finally, all three approaches are reflected in political and judicial decision-making, such as the *Americans with Disabilities Act* (ADA). Following the social model of disability, the ADA identifies 43 million Americans with physical and mental disabilities who have suffered from discrimination and segregation throughout U.S. history, thus treating disabled people as a marginalized minority group (Scotch 1997). But the ADA also employs the medical model by defining disability as a person's inability to perform "normal" major life activities, thereby encoding able-bodied lives as normal and disability as aberrant (Donoghue, 203; Scotch 2000). Subsequently, court decisions have primarily focused on whether litigants are indeed disabled. The murkiness of these determinations has led to controversy. For instance, a woman with asymptomatic HIV was considered disabled due to her inability to raise and bear children (*Bragden v. Abbott* 1998), but a man with mental retardation was ruled not disabled enough because it "is unclear whether thinking, communicating and social interaction are 'major life activities' under the ADA" (*Littleton v. Wal-Mart* 2007). The difficulty of defining disability supports a critical approach wherein the demarcation between normal and defective is not natural, but an arbitrary political act that changes over time, place, and circumstance.

All three models of disability present particular problems in relation to cognitive disability. The medical model fails to interrogate personal attitudes, societal prejudice, and ableist structures that reinforce and generate disability. The social model of disability presents difficulties due to its relationship to identity politics. In this model of emancipation, subjects must first self-identify as disabled and then use this identity as a means to political agency. But as some scholars have noted, cognitively disabled individuals may have difficulty self-

identifying as disabled and as political agents (Finlay 1998; Dowse 2001). Finally, critical disability studies scholars acknowledge the absence of cognitive disability from social model scholarship, but fail to integrate fully cognitive disability into their own analyses.

My own approach to disability builds primarily upon a critical disability studies model because of the ways in which it aims to destabilize the assumed naturalness of disabled *and* able categories. In response, this dissertation asks: What does the residual exclusion of cognitively disabled people reveal about underlying yet unarticulated assumptions of personhood? How can these assumptions be destabilized? What kinds of tensions within the disability rights movement disempower people with cognitive disabilities?

Rethinking the meaning of cognitive disability is thus intertwined with political theorists' normative commitments to personhood. Personhood is a key concept in liberal political thought and, problematically, the way personhood is defined often denies the existence of people with cognitive disabilities. The political import of personhood is similar to the ways in which some theorists use the term *informal citizenship*, as opposed to formal citizenship. Formal citizenship refers to the kinds of requirements encased within constitutions: birth, age, et cetera. Informal, or social, citizenship “involves the art of being with others, negotiating different situations and identities, and articulating ourselves as distinct yet similar to others in our everyday lives, and asking questions of justice” (Isin, Brodie, et. al 2008, 7). At the heart of this dissertation is the belief that people with cognitive disabilities experience diminished qualities of personhood in the broadest sense. They suffer in regards to the more formal aspects of citizenship rights—such as voting—and more informal threats to citizenship, such as social relationships, personal safety, employment opportunities, and overall quality of life.

Formal rights of citizenship are restricted for people with cognitive disabilities. Millions of Americans with emotional and cognitive disabilities are disenfranchised through state constitutional and statutory restrictions (Hurme and Appelbaum 2007; Karlan 2007; Appelbaum 2000; Schriener 2000). People with cognitive disabilities experience rates of serious crime 4 to 10 times higher than the general population and are at increased risk for sexual violence (Petersilia 2001). Up to eighty percent of women with intellectual and developmental disabilities are sexually abused, and of these women, most will be repeatedly assaulted. Many are abused by caregivers or people that they know. Most of these crimes, however, go unreported, especially if they are perpetrated against a person with a severe disability (Arrayan 2003). Prosecuting these crimes may appear daunting as the legal community largely believes that testimony of the cognitively disabled is unreliable (Johnson 2000; Sorenson 2000).

People with disabilities also experience higher rates of poverty. Across the globe, for every five people who live in poverty, one person has a disability (United Nations 2007). In the developing world, 80-90 percent of disabled people are unemployed, while 50-70 percent rate of disabled people are unemployed in the developed world. Disability not only affects individuals who are impaired. Families with disabled children are more likely to face severe economic hardship (Parish and Rose 2010; 2008) and families who live in poverty with a child with a disability will experience hardships more severely (Fujiura and Parish 2007; Park et al 2002). These informal barriers to citizenship—like violence and poverty—also sustain and propel formal barriers; i.e. families and individuals with disabilities may be unlikely to worry about their voting rights when their lives are plagued by grinding poverty and abuse.

We cannot blame entrenched formal and informal barriers of citizenship on the lack of awareness or advocacy around cognitive disability. Indeed, advocacy efforts on behalf of the

cognitively disabled in the United States can be traced to 1840 in the political activism of Dorothea Dix, who attacked the inhumane and abusive conditions of people with mental illness and cognitive disabilities (Dix, 1971). Conscientious objectors during World War II reignited societal awareness with shocking tales of abuse in state-run institutions (Taylor 2009); shocks which would then be re-experienced when Robert Kennedy (Blatt and Kaplan 1974) and Geraldo Rivera raised similar details of abuse in the 1960s and 1970s.

These exposés helped instigate a series of legislative and judicial reform. Although legislation and judicial decisions have aimed to improve the lives of people with disabilities, many of these legal mandates are double-edged. For example, the *Olmstead* decision guaranteed community housing for people with disabilities, but 72,647 persons are currently on housing waiting lists, some of whom will spend years waiting for community housing (Kitchener et al. 2005). While the decreasing numbers of institutionalized people seems to suggest more community options, these numbers belie a crisis of familial care. Over 711,000 adults with IDDD live with a parent over sixty (Pollack 2007), and this trend of aging caregivers promises to grow as well as age.

The fact that these mandates are unfunded is one way to account for the gap between policy and practice, and I admit that this reason is historically salient and continues to fuel the disparities people experience. But another reason for the disjuncture, I'll argue, is related to the disparaging and dehumanizing ways we think about people with cognitive disabilities. Problematically, many of these prejudicial attitudes are deeply embedded within dominant strands of liberal political thought. Even theorists who are attentive to exclusion and mindful of the lives of people with disabilities harbor commitments to personhood that lurk unarticulated at the foundation of their assumptions.

Displacing negative and often hidden assumptions is particularly difficult due to the spatial segregation of people with cognitive disabilities. This leads to their near or total absence from the academic spaces in which scholars pursue critical analyses and in many of the public places which we frequent. According to Robert Cummins and Anna Lau, even when people with intellectual disabilities are not physically isolated in institutions, they continue to have smaller social networks primarily comprised of family members and paid staff. Consequently, people with cognitive disabilities are “often not socially a part of their community” (2003, 146). Entrenched ableist prejudice, dehumanizing assumptions, and the continued segregation of people with cognitive disabilities all contribute to the complexity surrounding disability, personhood, and theoretical reform. The next section examines the ways my project relies on feminist theory and methods to uncover and confront these dilemmas.

III. Feminist Theory, Ethics & Research Methods

Feminist theory informs this project both substantively and methodologically. In this section, I first describe three ways that feminism broadly guides my project: the development of a feminist research ethic; (2) feminist analysis of women in the history of political thought as a model for my own project; and (3) feminist work that has specifically taken up the issue of disability. In the second section, I describe how these three broad feminist concerns lead to four specific research methods that shape the dissertation: genealogical inquiry, scholar-activism, grounded theory, and autoethnography.

Following Brooke Ackerly and Jacqui True, feminist methodological commitments within feminist scholarship cohere into a *feminist research ethic* (2008; 2010). Arising from feminists’ substantive and theoretical insights that continually unmask marginalization, silence,

and oppression, these commitments compel feminists to maintain attentiveness to power throughout all stages of the research process. This ethic entails attentiveness to four primary areas: (1) the power of epistemology, (2) the construction of boundaries, (3) attentiveness to relationships, and (4) the researcher's own positionality.

Each of these four areas is crucial to this project. Attentiveness to epistemology, the first prong of a feminist research ethic, disrupts the dichotomy between human and subhuman categories as a natural divide. It rejects any assumption that cognitive disability is somehow "more real" than differences based on race, class, gender, or sexuality and thus outside the realm of critical scrutiny. Second—the construction of boundaries—troubles the border between disabled and nondisabled, thus suggesting that conceptual boundaries of "normal" are equally arbitrary as the boundaries around disability. Part three—attentiveness to relationships—reminds the reader and researcher that this project is not limited to those labeled cognitively disabled, but is instead interested in how the subject formation of all persons is embedded in relations and refutations of interdependence. Finally, the principle of self-reflexivity takes seriously the ways in which a feminist approach to disability enforces the researcher's own self-disclosure of bodily difference, shame, and vulnerability.

Feminists also provide tools about how to think about political theory. Just as feminists have evaluated the explicit and implicit workings of woman in political philosophy, my dissertation explores the relationship of disability and theory. Susan Okin's work provides an exemplary approach insofar as she traces the epistemological role of woman throughout Western political thought (1979). Judith Stiehm's argument that current social science is troubled by an Aristotelian legacy also serves as an example to my own project. She argues that using the family as a unit of analysis to measure socio-economic status is due to an Aristotelian hangover

that subsumes women, children, and slaves under the male head of household (1983). For Stiehm, the fact that the household as a unit of analysis is seldom contested is evidence of a patriarchal worldview. Similarly, my project aims both to uncover the normative stigmatization of cognitive disability within liberal political thought and questions how this stigmatization affects underlying political assumptions.

Finally, feminist theorists have criticized liberal political thought for its erasure of cognitively disabled people and dependency workers. Eva Feder Kittay is by far one of the most prominent theorists to examine the issue of cognitive disability and liberal political theory, but others also serve as important examples: Martha Minow (1990), Rosemarie Garland-Thomson (2005; 2002), Susan Wendell (1989), Sophia Isako Wong (2002), and Martha Nussbaum (2006). While my analysis of disability and liberal political thought departs in important ways from prior feminist scholarship, my argument is nevertheless beholden to their work.

While a feminist research ethic instills attentiveness and guides the choices a researcher makes, it does not suggest which particular research methods to use. Four research approaches inform this dissertation: Foucault's genealogical inquiry, feminist scholar-activism, sociology's grounded theory, and autoethnography. In contrast to dominant empirical models of research, these methods challenge the presumed objectivity of the researcher and instead recognize research as an interpretive and iterative process. Most importantly, all four research approaches aim to destabilize unexamined concepts and the epistemology of the researcher. In the remainder of this section, I describe the contributions of each approach to my dissertation.

1. *Genealogical Method*

A primary aim of this dissertation is to destabilize the meaning of cognitive disability; in this regard, much of my analysis is informed by Michel Foucault's genealogical method. Foucault's genealogical objective is to denaturalize familiar concepts to expose the possibility that altering practices can alter subjects (1984). Genealogy is particularly appropriate for marginalized subjects because it investigates "what we tend to feel is without history" (76). For example, Foucault's work on punishment destabilizes the assumption that imprisonment is the natural response to crime by showing how penal incarceration eclipsed execution as the state's primary solution to criminality (1977). In addition, Foucault's *History of Sexuality* provides a genealogical approach to the construction of sexuality and upturns dominant assumptions around sex, most notably of which is the assumption that sexuality was repressed (1978). Likewise, my project refuses to see the exclusion of cognitively disabled people as a natural outcome of bodily impairment, but rather interrogates this exclusion as a product of historical and societal practices.

Other examples of genealogical inquiry include Nancy Tuana's history of female orgasm (2006) and Ann Laura Stoler's work on race, colonialism and sexuality (1995). Tuana's genealogy reveals that knowledge of women's anatomy went underground for several centuries and significantly altered the way in which women experienced their own bodies. Stoler's work builds on and criticizes Foucault's *History of Sexuality*, uncovering the ways in which he failed to interrogate how the colonial subject influenced European sexuality.

This dissertation applies genealogical inquiry to the practices and discourses surrounding cognitive disability, asking how this category came to be seen as naturally inferior and outside the bounds of justice. This is particularly important as disabled histories are generally absent from academe, even within the field of disability studies (Das 2001; Deutsch 2000).

2. Feminist Scholar-Activism

While genealogy is well suited to understanding the constructions of theoretical problems, it may be inadequate at generating theoretical solutions. Susan Bickford argues that Foucault's focus on discourse disembodies human subjects and diminishes resistance (1993). To rectify this, feminist examination of advocacy activities and discourses provide new directions for structural and theoretical reform (Ackerly 2008; Casals 2008). Importantly, analyzing activism uncovers struggle: struggle over meanings, epistemologies, and power. Like Foucault, activists offer insight into the ways in which issues are framed as problems and how these constructions delimit possible solutions. Consequently, my dissertation analyzes advocacy organizations and practices focused on people with cognitive disabilities.

Reflecting on the voices and actions of people with intellectual disabilities to guide theory is imperative for multiple reasons. First, inclusion of disabled voices is congruent with the disability rights movement's motto of "nothing about us, without us" and rectifies scholarship about disability that excludes the involvement or insight of disabled persons. Second, the inclusion of disabled voices destabilizes a method of ideal theorizing that has promoted a conception of being human that idealizes the cognitive capacities of everyday democratic citizens and thus excludes people with cognitive disabilities (Mills 2005). Finally, relying on advocates' voices and actions momentarily suspends the epistemological authority of the researcher with the intent to allow the experiences of those most marginalized to guide the development of theoretical claims.

The inclusion of disabled people, however, is controversial. For some scholars, the long history of invasive and deceitful research practices precludes any involvement of actual disabled

people as research subjects. David Mitchell and Sharon Snyder reflect on their own complicity in their role as researchers with oppression, now framed under the mantle of disability rights:

Research that involves human subjects threatens to replicate the oppressive history of time and energy depletion that is one of the primary sources of disabled people's subjugation. [...] Beneath the guise of a leftist agenda of disability-centered research, we still reproduce an intense degree of oppression in the name of a newfound respect for disabled people's input into the bottomless well of our quest for disability knowledge. (2005, 632)

In addition to inadvertently reproducing oppression, Snyder and Mitchell caution against using disabled voices as a way to move beyond ableist prejudice. Instead, they argue that cultural prejudice infiltrates attitudes of the disabled as well as the nondisabled (2006).

Jan Walmsley similarly worries about researchers who study people with cognitive disabilities. "The fact that people with learning difficulties usually need allies or supporters to enable them to undertake research means that they are extremely vulnerable to having their interests misrepresented by others" (2001, 201). In particular, because most researchers who study self-advocacy share the same goals as the self-advocacy movement, Walmsley argues that they produce a "somewhat uniform representation of people with admirable human qualities struggling to make the most of difficult lives." As Walmsley notes, this "may be replacing one stereotype with another" (194-195). Together, the concerns of Mitchell, Snyder and Walmsley suggest that research may bolster oppression and lack critical teeth. While I bracket these methodological concerns for now, I return to these dilemmas in chapter 5 when I focus specifically on my observations of advocacy practices.

As part of my research, I attended local, state, and national conferences convened around disability rights between fall of 2007 and fall of 2010. Many of these conferences are driven primarily by nondisabled professionals; disabled self-advocates often constitute a small minority of attendees. Due to the potential silencing of people with disabilities that these dynamics

promote, I have been particularly interested in the self-advocacy movement for people with cognitive disabilities. While self-advocacy can be defined broadly as any person advocating for herself, the term holds particular import within the disability rights movement. Here it often refers specifically to people with intellectual and developmental disabilities who advocate for themselves in contrast to professionals and parents who have tended to dominate public policy around disability issues. Because of the history of exclusion—that has often been cloaked by paternalism—self-advocates are especially skeptical of the ability of the nondisabled to speak for them and are concerned that their movement may be easily co-opted by professionals or parents (Aspis 2002).

Self-advocacy groups are relatively recent phenomena for people with cognitive disabilities; the first group was started in the U.S. in 1974. In comparison, parental groups began in the 1950s and disability rights groups organized around physical or sensory impairments had an even earlier start in the twentieth century. According to Garcia et al, “self-advocacy groups are led by people with intellectual disabilities with the objectives of: (i) supporting people with intellectual disabilities to speak up for themselves and (ii) advocating for their rights as a group” (2009, 10). For Self Advocates Becoming Empowered (SABE), self-advocacy is

about independent groups of people with disabilities working together for justice by helping each other take charge of our lives and fight discrimination. It teaches us how to make decisions and choices that affect our lives so we can be more independent. [...] The way we learn about advocating for ourselves is by supporting each other and helping each other gain confidence in ourselves so we can speak out for what we believe in. (Nelis 1994, 1)

SABE and People First are two of the most prominent self-advocacy groups in the United States; SABE is a national organization made up of local self-advocacy groups, which are often chapter meetings of People First.

Consequently, in the fall of 2008, I contacted the executive director of Middle Tennessee's office of People First, which is a state-wide self-advocacy organization run by and for people with disabilities. Arlene gave me permission to attend local chapter meetings and I also volunteered in the office between the fall of 2008 and the spring of 2010. Tennessee has twenty-one local chapters across the state and primarily serves people with intellectual disabilities who currently live in non-familial residential settings. To protect the privacy of individuals at these meetings, all names included in any note taking, memoing and final write-up are pseudonyms. However, the meetings themselves are not private, evident by the fact that they are held in public places. The publicity of these meetings is a point that also came to have theoretical import to me as will be explained in chapter 5.

In addition to local meetings, I have observed national conferences organized around disability rights and inclusion. Participant observation at national conferences is ideal for multiple reasons. First, because these conferences are public venues, participants do not have an expectation of privacy and thus will not be harmed by my observations. Second, persons attending conferences are more likely to have political convictions around disability and may be more willing to share these perspectives. Finally, national conferences contrast well with local meetings. Observing advocacy practices at multiple sites enables me to be more attentive to the risks of silencing those most marginalized. Multiple questions arise out of participant observations, such as: How do current self-advocates define key contested concepts, such as disability, personhood, and reciprocity? How do they frame political demands for justice? Are they susceptible to problematic legacies that base inclusion on threshold levels of capability? These questions aim to identify how self-advocates' identities and practices both resist and acquiesce to the paradox of personhood.

3. *Sociological Grounded Theory*

While the approaches of genealogy and activist scholarship are theoretically compelling, grounded theory offers this project a specific set of analytic tools to guide the theoretical and critical process. While this project departs from grounded theory's intent to generate empirical claims, it borrows grounded theory's analytic tools to guide theoretical development. Grounded theory, as well as activist scholarship, contributes to the ways in which empirical research informs normative theory. In effect, grounded theory provides tools to the feminist theorist who aims to practice a feminist research ethic.

Initially articulated by Glaser and Strauss, grounded theory challenges the extreme positivism of social science inquiry in its emulation of the scientific method (Glaser 1967; Suddaby 2006). Rather than begin with a set of hypotheses, grounded theorists immerse themselves in data collection and from that immersion generate insight. In this way, the theory is grounded in the actual data. Glaser and Strauss recognize that the perspective of the researcher informs the questions that get asked, data analysis, and conclusions, thus rendering social science more akin to an act of interpretation rather than discovery. Kathy Charmaz's description of specific methods—such as theoretical sampling and memoing—are particularly helpful to this project as they describe a manner by which a researcher can simultaneously be immersed in theoretical development while remaining self-reflexive on herself in the role of a researcher (2006).

Feminists who use empirical research to inform the development of normative theory are influential to this project. Attentiveness to the lived reality of women has offered feminists new grounds to revise existing theory. In psychology, Carol Gilligan's *In a Different Voice* interviews

women to critique Lawrence Kohlberg's moral theory and constructs a paradigm of moral reasoning based on care (1982). Within political science, Brooke Ackerly utilizes the insight of global women activists to revise dominant concepts in deliberative democracy (2000; 2008). In anthropology, Saba Mahmood's ethnography of Muslim women's piety movement in Egypt challenges key dimensions of Western subjectivity, such as freedom, agency, and resistance (2004). These examples testify to the ways in which attention to empirical reality can inform normative theory. Likewise, my dissertation aims to revise political theory based on the experiences and insight of people with cognitive disabilities.

More broadly, this project takes from grounded theory a theoretical and methodological openness to creativity. Grounded theory's ethic of creativity leaves open the possibility that new research methods may be needed in order to confront the theoretical puzzles surrounding cognitive disability. Researchers studying people with cognitive disabilities make creative methodological choices in regards to how data are gathered and shared. For David Mitchell and Sharon Snyder, the long history of discriminatory and disempowering research methods to study people with disabilities necessitates a research ethic that only analyzes textual artifacts on disability rather than individuals with disabilities (2006). In contrast, Jo Aldridge includes cognitively disabled persons in research by giving participants cameras in order for them to document their daily obstacles through film (2007). In regards to data sharing, Michael Angrosino presents his ethnography of a residential house for cognitively disabled men as a series of fictional stories to protect the privacy and dignity of his research subjects (1998). These examples testify to the creative choices that researchers make in order to respect the integrity and autonomy of cognitively disabled persons.

4. Autoethnography

How have political theorists chosen to think about disability? In many cases, disability has chosen the theorist. By this I refer to the fact that many political theorists who earnestly and seriously explore the issue of cognitive disability have done so because their lives are enmeshed with disabled dependents. For example, Eva Feder Kittay's work is pervaded by her experience mothering Sesha, her profoundly disabled daughter. For Kittay, her life with Sesha grounds her theory in the actual practices of everyday life, as her experience acts "as a tether that prevents me from wandering away from the lived reality" (1999, 162). Familial connections are often revealed in other theorists' analysis of disability as well: Martha Nussbaum's *Frontiers of Justice* discusses her autistic nephew (2006); Michael Berube's work on disability arises out of his experience fathering a son with Down syndrome (1998); Roger Gottlieb discusses the effect of raising a daughter with mental retardation (2002); and Sophia Isako Wong thinks about care through her relationship with her brother with Down syndrome (2002). All of these theorists—some more than others—move between personal experience and normative theory to ground and guide their critique. They do not, however, name this way of theorizing as a method.

Autoethnography is a kind of sociological method—arising out of grounded theory—that describes the ways that theorists like Kittay have been thinking and writing about cognitive disability. Carolyn Ellis and Arthur Bochner describe autoethnography as an autobiographical genre of writing in which researchers use their own personal experience as a way to understand larger cultural phenomena (1992). Carolyn Ellis describes autoethnography as if she is speaking to students on the first day of class: "We'll view ourselves as part of the research—sometimes as our focus—rather than standing outside what we do. Instead of starting with hypotheses, we'll emphasize writing as a process of discovery" (2004, 3). By exploring and revealing personal

experience, autoethnography challenges the model of positivist research that constructs the researcher as objective, silent, and ideally invisible. Instead, displaying the vulnerability of the researcher is a crucial component in autoethnography. Ellis and Bochner, for example, compose a co-constructed narrative as a therapeutic way to process Ellis's own decision to abort a pregnancy during their relationship. Not only does autoethnography challenge the identity of the researcher, it also plays with the forms that research can take. Ellis's handbook on autoethnography, for example, is written as a novel.

Autoethnography is valuable to my project in two ways. First, thinking about theoretical texts *methodologically* helps us think more critically about the function of personal experience in relation to cognitive disability. Methodological questions raised here include: how does the disclosure of personal experience influence our understanding of cognitive disability? What happens when cognitive disability is most often situated in political theory through the lens of caregivers? What kinds of biases are more apt to arise when the persona of cognitive disability is always some theorist's child? As evident by my line of questioning, I suspect that these works—while incredibly important and intensely valuable to the development of my own scholarship—may in fact have the adverse effect of depoliticizing disability by continually cloaking it within a familial framework.

Autoethnography is also important in the creative choices that I make in my own research. As revealed at the start of this introduction, my brother is autistic. Like Ellis and Bochner articulate, these personal experiences influence, filter, and refract the observations I gather, the theoretical paradigms I critique, and the analyses I pursue. Choosing when and what to disclose is difficult. Throughout the research process, I often return to personal experiences as a way to think through theoretical challenges. Autoethnography thus joins genealogy, activist

scholarship, and grounded theory as another tool my dissertation picks up, considers, and puts to work. In the next and concluding section, I review how these tools hammer out the individual chapters and arguments of the dissertation.

IV. Roadmap of Dissertation

Because the exclusion of people with cognitive disabilities is entrenched in mainstream and critical scholarship, societal attitudes and practices, as well as the self-advocacy movement itself, this dissertation takes aim at multiple targets, including theoretical texts, historical practices, and current political movements. By asking how political theory has been historically entangled with cognitive disability, my project aims to demonstrate how cognitively disabled *and* nondisabled subjects are co-constructed by theoretical narratives around personhood.

In chapter two, I explore in greater depth the ways in which cognitive disability and personhood became enmeshed in the heart of political theory at the advent of the Enlightenment. I focus on the work of John Locke, in which the category of idiocy repeatedly surfaces, thus establishing the ways in which Locke's construction of personhood is constituted by the idiot figure it disavows. Locke plays a crucial role because he is significant to liberal theories of personhood *and* because he helped position idiocy as a central category of Enlightenment interest. Locke's social compact is thus underwritten by an epistemological *disabled contract* whose terms construct idiocy as a static, private, and subhuman category.

Chapter three compares the social contract theory of John Locke to the contemporary version of the contract in John Rawls' political thought. Like Locke, John Rawls uses disability to define citizenship, but then disavows its role by sequestering disability outside politics. Rawls's removal of severe disabilities exposes the epistemological flaw of social contract theory:

the contract moment depoliticizes disability and forecloses the possibility of rethinking foundational assumptions. Rawls not only signs on to the disabled contract, he augments it by adding a fourth term—*disability as threat*—which constructs severe disability as a drain on economic resources that triggers the uncontrollable anxiety of nondisabled agents. Rawls’s original position, rather than dislodge societal prejudice, depoliticizes disability and fortifies the ableist terms of personhood.

Chapter four explores the ways in which the disabled contract helps explain the subsequent history surrounding people with cognitive disabilities and how critical and feminist scholarship remains complicit with their exclusion. Historical analysis reveals the intractable nature of the disabled contract, repeatedly disputed and reinforced, as well as interwoven with constructions of race, gender, class, and sexuality. I uncover the ways in which violating the sexual and racial contracts—which enforce racial and sexual subordination—strengthens, rather than diminishes the disabled contract. Understanding the workings of the disabled contract—as well as the racial and sexual contracts—thus requires a commitment to intersectional analysis and an attentiveness to the ways in which emancipatory strategies inadvertently reinforce marginalization.

Chapter five explores the ways in which the paradox of personhood operates within the current self-advocacy movement, evident in the ways in which self-advocates construct themselves and their political objectives. My dissertation thus relies on a feminist-activist method that uses observations gathered from disability rights advocacy sites as a platform to rethink the purpose of the contract and the meaning of personhood. In chapter five, I focus on a local chapter meeting of People First, an organization run by and for people with disabilities, to demonstrate the ways in which disabled and nondisabled participants both reinforce and disrupt

liberal constructions of personhood. While previous chapters focus primarily on the construction and function of the disabled contract, chapter five turns its attention to the paradox of personhood, because it is at this juncture—between self-advocacy and the disabled contract—that the paradox between equality and cognitive competence is most evident.

In the concluding chapter, I argue that my analysis of the theoretical, historical, and self-advocacy instantiations of the disabled contract all lead to a kind of paradox of personhood. Drawing specifically on Wendy Brown's understanding of the paradox of rights, I argue that the legacy of the disabled contract is a paradox of personhood, both troubling and seductive. Although the paradox of personhood threatens to be inescapable, awareness of the ways it functions provides critical and feminist theorists, as well as self-advocates with disabilities and their allies, new tools to disrupt, displace, and destabilize entrenched exclusionary norms.

In summary, cognitive disability is deeply embedded within social contract theory and more broadly pervades liberal, critical and feminist scholarship. For political theorists who aim to promote social justice, my analysis provides ample reason to reevaluate our theoretical assumptions, to see how legacies of the disabled contract continue to stalk unnoticed at the roots of our foundations. Moreover, by building theoretical solutions on engagement with self-advocates through participant observation and interviews, I offer an account that integrates people with intellectual disabilities as a way to avoid further exclusion and to hopefully augment their political strategies for inclusion, rights, and empowerment.

More broadly, my dissertation is a long awaited response to my teacher. My project continues the feminist principle that the personal is political; that my experience with my brother with autism reveals the insufficient and at times ridiculous way we do (or don't do) justice for people with cognitive disabilities. From that warm spring day I've been mulling over the

comparison of my brother with the most intelligent of dogs and, whichever way I frame it, I keep rejecting it. I believe that justice should not be compromised due to disability, regardless of the severity of impairment.

CHAPTER II

INDISPENSABLE IDIOCY: LOCKE, EQUALITY AND DISABILTY

“The Foole hath sayd in his heart, there is no such thing as Justice.” Hobbes, *Leviathan*

While contemporary scholars easily dismiss the role of idiocy in John Locke’s theory of equality, Locke himself repeatedly uses disabled tropes—most notably the so-called idiot—to define and delimit the category of personhood in *An Essay Concerning Human Understanding*. Personhood is essential to Locke’s social contract: consent is predicated on personhood and consent transforms the state of nature into civil society. The idiot, incapable of consent, upturns the terms of the social contract and undergoes an inverse metamorphosis from man to subhuman species. My analysis of Locke’s treatment of idiocy thus discloses the *disabled contract*—a device used to limit the emancipatory promise of the social contract. In his epistemological exclusion of the idiot, Locke destabilizes his social contract moment and, because Locke occupies a central role in the development of liberal political thought, it also threatens liberal egalitarianism more broadly.

The idiot figure, so often conjured by Locke, functions like a distorted mirror image: devoid of reason and reflection, the idiot face looks out at the citizen, and in turn, amplifies the citizen’s rational capacity. Rational capacity is crucial for Locke and social contract theory more broadly. For Locke, the legitimacy of political power hinges on the rational capacity of citizenry: without a rational populace, power cannot be legitimate. Locke’s *Essay*, however, displays a deep skepticism of men’s rational power: not only is it threatened by impairment, but rationality is also susceptible to laziness, faulty acculturation, poor education, and the infirmities of age,

both for the very young and the very old. While the permanency of idiocy is unique, poor judgment proliferates in the *Essay*.

Locke's gaze does not center on the idiot alone, but is cast upon a collection of marginalized subjects, including the illiterate, savage, and criminal. Idiocy is distinct, however, because it signifies a complete inability to think. Defined as such, Locke's idiot is an exaggeration, a concept vacated of actual individuals. But if idiocy is more phantasm than reality, the rational capacity that it magnifies for the liberal citizen is also jeopardized. Rationality is jeopardized because of the many different forms of cognitive impairment—such as idiocy, insanity, and drunkenness—and because every person's life is marked by periods of cognitive incapacity—such as birth, youth, illness, and old age. By repeatedly returning to the idiot, madman, drunkard and fetus to symbolize failed rationality, Locke distracts as from our own definitive cognitive decline.

Locke's dehumanization of idiots is explicit and recurrent, and yet, scholars remain undisturbed by how this disparagement detracts from Locke's commitment to human equality. Indeed, Jeremy Waldron argues that Locke's conception of equality is the strongest defense that liberalism can muster (2002). While Waldron and other scholars acknowledge Locke's exclusion of idiots, they resign themselves to the idea "that *almost all* human beings are one another's moral equals" (Fabre 2003, 472). The fact that liberalism's best theory of equality can't even incorporate all human beings should be a problem for egalitarians.

Readers familiar with Locke's *Second Treatise* know that human equality is fundamental to Locke's political theory. "There being nothing more evident," according to Locke, "than that creatures of the same species and rank, promiscuously born to all the same advantages of nature, and the use of the same faculties, should also be equal one amongst another without

subordination or subjection” (Ch. 2, §4). In Locke’s *Essay*, however, faculties are no longer the same, but arranged in gradations from the most intelligent to the entirely deficient idiot. Together, the *Essay* and *Second Treatise* draw the boundaries of human understanding, human membership, and legitimate political power. For Locke, idiocy populates the outskirts of each terrain.

The problem of idiocy is not isolated to issues of disability, but rather strikes at the coherence of liberal commitments to equality. By hinging political equality to equal cognitive capacities, Locke unravels the inclusiveness of his social contract. In effect, Locke’s treatment of idiocy *disables* the terms of his social contract. Every instantiation of the social contract that hinges political inclusion to cognitive competence simultaneously enacts the disabled contract—and thus denies political membership to any person insufficiently competent. But Locke’s disabled contract goes further. For Locke, when cognitive incompetence is conjoined to permanent bodily difference, the status of personhood is itself revoked, forcing idiots to inhabit a liminal space between the human and the nonhuman.

Unraveling Locke’s historical influence on the treatment of idiocy—while important in itself—also illuminates the ways in which Locke’s conception of idiocy constituted the very nature and meaning of liberal personhood. In so doing, this chapter recasts idiocy as a central problem for Locke’s theory of equality. Locating equality in the capacity of rational reflection not only excludes idiots, but produces conceptual confusion in Locke’s theory of politics, political responsibility, and consent. Across Locke’s corpus, idiots repeatedly reprise their role as the antithesis to personhood as their cognitive deficiency proves the importance of rationality for political membership. The legitimacy of consent by rational subjects is in part safeguarded by citizens’ ability to differentiate themselves from non-rational idiots. Understanding the

relationship between idiocy and personhood also helps us understand Locke's treatment of other marginalized groups—including women, non-whites, the poor, illiterate, the unborn, and the very old.

This chapter is divided into four parts. The first section paints in broad brushstrokes the cultural and intellectual landscape of idiocy in which Locke was located. This brief description allows us to see how Locke's treatment magnified some and diminished other cultural beliefs about idiocy. Second, I analyze Locke's treatment of idiocy in the *Essay* alongside his treatment of children, savages, madmen, the very old, unborn, paralyzed, and blind. While these other groups are marginalized due to acculturation, bad habits, or partial impairment, the permanent and irrevocable bodily difference of idiots renders them less than human. In the third section I argue that Locke's treatment of idiocy is a problem for liberal egalitarianism. In the final section, I conceptualize Locke's treatment of idiocy as an epistemological contract, which I refer to as the *disabled contract* whose terms deny the political equality of people with cognitive disabilities.

I. Idiocy in Context

Although idiocy was developing new religious, medical, and legal significance during the seventeenth century, it remained an ambiguous category, subject to diverse and opposing interpretations. The term idiocy itself lacks precision (Halliwell 2004, 2), as definitions in the seventeenth century range from the uneducated, to private persons, and to the incurably dull (Little 1973, 952). Etymologically, idiot derives from the Greek *idiotis*, meaning “private person, common man, plebeian, [or] one without professional knowledge” (*Oxford English Dictionary*). Idiocy was not the only term employed in the seventeenth century to describe people considered unintelligent. It can be found alongside *naturals*, *fools*, *natural fools*, *stupid*, *dull*, *innocents*, and

dolts. Whether these terms functioned interchangeably or had distinct connotations cannot be said for certain. Indeed, the indeterminacy is evident in the difference between Hobbes's *foole* and the Lockean *idiot*. While the fool in the *Leviathan* is capable of entering into a contract and even deceit, Locke's idiot is unable to retain even the simplest idea. Equally problematic is the fact that histories of idiocy seldom predate the nineteenth century (Goodey 1996), in part due to the lack of documentation before the rise of residential institutions for the feeble-minded. For all these reasons, it is impossible to know *for certain* how current categories of mental impairment map on to Locke's notion of idiocy.

Certainly, Locke's interest in idiocy was sustained and persistent. Idiots appear in his earliest political writings, *Two Tracts on Government* and *Essays on the Law of Nature*, and also in his most significant publications, the *Essay* and the *Second Treatise*. While it is impossible to recreate a perfect understanding of idiocy in Locke's context, this section roughly sketches the likely cultural contours of mental disability in seventeenth century England.

During Medieval England, lunatics and idiots—or “fools” as they often were called—faced legal and institutional exclusions in England. According to Virginia Parnel, “property of idiots reverted to the Crown's appointed guardians in compensation for their perpetual care, whereas the property of lunatics was retained for their own use, since they might recover and need the resources” (2006, 683). While the origins of lunacy and idiocy are similar, these different designations had important political consequences as all land, personal property, and even the very bodies of idiots belonged to the Crown. According to Richard Neugebauer, “any rents and profits collected by the Crown during the idiocy, in excess of costs of the individual's upkeep, were considered a legitimate source of royal revenue” (1966, 26). In contrast, accumulated wealth would revert to recovered lunatics or to their heirs. To determine mental

incompetence, a group of twelve or more men would take part in a trial-like procedure referred to as an “inquisition.” Both men and women were subject to competency hearings. Individuals were judged based on a range of issues, including knowledge of his or her own name, age, and kin; simple arithmetic and—in later cases—literacy skills; and whether his or her personal appearance resembled the “countenance of an idiot” (Ibid).

Using curability as the marker between madness and idiots continued to be important in English society in the seventeenth century legal writings of Sir Edward Coke. Coke described the legal culpability of the different categories of *non compos mentis*, including idiots, lunatics and drunkards. According to Coke, the idiot “is known by his perpetual infirmity of natura, *a natiuite*, for he never had any sense or understanding to contract with any man.” Because the idiot cannot ever be cured, he cannot “defend or govern himself,” all of his belongings and his very body belong to the custody of the King (1826). The distinction between madness and idiocy would continue to be significant in eighteenth-century institutional practices that prohibited the hospital admission of idiots due to incurability (Andrews 1998, 75). Before the development of large-scale institutions in the eighteenth century, the care of idiots was generally a familial concern (Rushton 1988).

Beginning in the seventeenth century, changes in religious understandings of the soul led to the shifting spiritual status of idiots that was both inconsistent and contradictory (Gabbard 2008). On one hand, early English opinion considered fools closer to God, presuming their mental deficiency left them incapable of deceit and thus absolved from sin (Billington 1984, 17). On the other hand, as Protestants moved away from a belief in Calvinist predestination, individual comprehension of God became a key dimension of personal salvation. According to C.F. Goodey, while this new theology made salvation more inclusive for most, it significantly

endangered the souls of idiots who could not comprehend God and thus intensified the superstitious belief that idiots were of satanic origin (2001, 9-10).

Concurrent with religious upheavals, scientific studies of the mind and body also incriminated idiots. For example, Sarah Cohen argues that anatomical studies showing the similarity between human and nonhuman bodies placed fresh emphasis on philosophers to distinguish the unique specificity of the human soul. Descartes takes up this challenge in his *Discourse on the Method* in 1637. According to Cohen, “For Descartes it was precisely through comparison of human to animal that one could perceive the spiritual distinctiveness of human soul, the spiritual being understood as *fundamentally intellectual* and the seat of human reason” (2004, 45). While Cohen suggests that Descartes’ answer was insufficient to end the debate on the difference between the souls of humans and animals, he also left unanswered the condition of humans who were bereft of reason. Descartes’ effort to privilege reason thus works as another move rendering idiots more vulnerable to dehumanization.

Along with religious and philosophical currents pushing idiocy to the forefront of attention, Thomas Willis—a medical contemporary of Locke—was among the first to argue that idiots were indeed educable. Inspired by work with deaf pupils, Willis argued that mental deficiency, while not curable, was amenable to medical and educational interventions that could restore basic elements of learning. He designated two categories of idiocy—stupidity and fools—and considered fools more educable as their deficiency was not as severe as those labeled stupid. Willis’s belief that idiocy could have multiple causes—including heredity, drunkenness, illness, and severe injury—was unique for his time (Willis 1971). While Locke was a student of Willis’s, his own conclusions on the educability of idiocy differed drastically as he believed they were incapable of improvement (Gabbard 380). Locke’s dismissal of Willis’s ideas may have been

due to their opposing politics; Willis was a staunch supporter of the Crown. Locke was not the only one to ignore Willis's ideas on idiocy. For another century, the possibility of educating idiots was disregarded.

To summarize, seventeenth-century England was a time in which idiocy was rising in prominence—deployed for religious, medical and political purposes—and yet, the concept itself remained open to new interpretation and significance. Locke's *Essay*, published in 1689, took advantage of idiocy's indeterminate boundaries. By repeatedly reprising the idiot's role as the citizen's distorted mirror image, Locke propelled idiocy into a "family of privileged epistemological subjects" whose lives functioned instrumentally in prominent empiricist discourse (Bewell 1989, 58). Marginal persons—including the idiot, criminal, insane, and savage—epitomized radical difference, and were used to patrol and populate the outskirts of human nature (Ibid, 25). Locke's construction of idiocy built on prevalent strains in conventional opinion, using the idiot as the symbolic absence of personhood and to signify the impossibility of consent.

II. Idiocy in the *Essay*

Within political theory, Locke's best known works include the *Second Treatise* and the *Letter on Toleration*. While less attention has been paid to the *An Essay Concerning Human Understanding*, it nevertheless functions alongside the *Second Treatise*. Analyzing the *Second Treatise* alongside Locke's *Essay* reveals that the account of equality he develops in the former is gradually unraveled by the latter. Rather than jettison the social contract altogether, Locke's recognition of the susceptibility and fragility of human rationality in the *Essay* potentially provides a more nuanced but more robust foundation for political equality.

Chronologically, both works were composed over the same period and published in the same year, albeit the latter anonymously (Lowe 1995). Because Locke was developing the ideas in these texts simultaneously, they can be treated as complements to each other. Rather than merely an exploration of understanding, Locke's *Essay* encompassed both the nature of man and the prerogatives of political power. Throughout the text, Locke repeatedly returns to the idiot figure. First, Locke uses the idiot to signify the impossibility of the existence of innate ideas. Second, along with other impaired identities, idiocy clarifies the different components of human understanding. Finally, because idiots lack the key faculty of thinking, they are excluded from Locke's narrower category of personhood as well as his broader class of the human species. Here, idiocy patrols the border between man and beast, constituting a liminal space between the human and nonhuman sphere. As such, idiocy upholds the normative category of personhood—now constructed as reliably rational—and thereby protects the legitimacy of the social contract.

1. Idiocy Negates Innate Ideas

The first task of the *Essay* is to undermine Descartes' epistemology based on innate and universal maxims in order to replace it with an understanding of knowledge derived directly from experience and sensation (Dunn 2003, 74). Along with children, savages, and the illiterate, idiots refute the existence of innate ideas. Consequently, where John Dunn sees great optimism in Locke's theory of the mind as a blank page, I argue that it in fact justifies the permanent exclusion of people with mental disabilities from human equality (2003).

In the first book of the *Essay*, Locke argues that if innate maxims exist, "we must then find them clearest and perspicuous, nearest the Fountain, in Children and Illiterate People, who have received least impression from foreign Opinions" (1975, 81). He concludes, however, "'tis

evident that all *Children* and *Ideots* have not the least Apprehension or Thought of them” (1975, 49). While idiots are found in the *Essay* alongside savages and children, their deficiency is unique because of its severity and permanency. “But alas,” Locke implores, “amongst *Children*, *Ideots*, *Savages*, and the grosly *Illiterate*, what general Maxims are to be found?” Locke acknowledges that a child can recognize his nurse and the savage love hunting, but no impression is found “on the Minds of *Naturals*” (64). Locke thus depicts the capacity for understanding both in terms of degree—as for instance with infants, children, and savages—as well as a dichotomy, with a sharp divide between idiots and all others.

When Locke turns to the possibility of innate ideas in the much earlier *Essays on the Law of Nature*, he similarly sets up a dualistic divide between the *wise* and the *stupid*:

If this law of nature were written in our hearts, why do the foolish and insane have no knowledge of it, since the law is said to be stamped immediately on the soul itself and this depends very little upon the constitution and structure of the body's organs? Yet therein admittedly lies the only difference between the wise and the stupid. (1997, 99)

In the first half of this section, Locke regards the foolish and insane as both oblivious to the law of nature, but by the end, the insane have disappeared from Locke’s analysis. Instead, Locke differentiates between the *wise* and the *stupid*, which suggests he attributes *bodily* difference to the idiot, and not the insane. Locating idiocy in the body’s organs is consequential for Locke because it signals *permanent* difference. This permanency is important and unique to the idiot. Unlike children who grow or mad men who recover, the physiological defect of idiocy is forever.

Bodily difference is a recurrent theme throughout Locke’s *Essays on the Law of Nature* and in his later *Essay*. In the *Law of Nature*, Locke distinguishes between the dull “who make no use of the light of reason but prefer darkness” and those in whom “through natural defect the acumen of the mind is too dull to be able to bring to light those secret decrees of nature” (113).

In the *Essay*, Locke speculates about the “great difference in men's intellects, whether it rises from any defect in the *organs of the body* particularly adapted to thinking; or in the dullness or untractableness of those faculties for want of use” (709). Locke differentiates between the few who cannot think clearly because of bodily difference—such as idiots—and the dull who simply lack the *desire* or training to think. The permanency of bodily difference is important to Locke, not only because it separates the wise from the stupid and the defective from the dull, but as I will show, it draws the boundaries of political authority.

Locke’s occupation with bodily difference is not only categorical, but figures historically in the *Essay* in which he attempts to chronologically order the degrees of human and nonhuman understanding. His description of brutes, idiots, and madmen provides a “true *History of the first beginnings of Humane Knowledge*” and functions as a powerful tool to both disprove innate ideas and normatively rank different kinds of species (1975, 93). In the beginning of Locke’s history of knowledge, “brutes come far short of men” because they cannot put simple ideas together and have no capability of composition (90). While brutes possess some minimal powers of reflection and perception, they have limited ability to compare simple ideas, are incapable of recognizing complex ideas, and lack completely the faculty of abstraction (157-9).

Idiots represent the historical period between beast and man, but are more akin to their brutish predecessors than the madmen that follow. According to Locke, idiots “cannot distinguish, compare, and abstract, would hardly be able to understand and make use of Language, or judge or reason to any tolerable degree” (160). Idiots, like brutes, possess minimal language, are unable to think abstractly, and rely primarily on their senses for information. Indeed, the chronological location of idiots between brutes and madmen is not due to any mental acuity of idiots: Locke regards their mental functioning as comparable to brutes, or perhaps even

less. Instead, their chronological position is primarily due to their outward shape as the body of the idiot is more human than beast. Yet, Locke delineates clearly between idiots and madmen.

Accordingly,

[T]he defect in *Naturals* seems to proceed from want of quickness, activity, and motion, in the intellectual Faculties, whereby they are deprived of Reason; Whereas *mad Men*, on the other side, seem to suffer by the other Extreme. For they do not appear to me to have lost the Faculty of Reasoning: but having joined together some *Ideas* very wrongly, they mistake them for Truths; [...] In short, herein seems to lie the difference between Idiots and mad Men, That mad Men put wrong *Ideas* together, and so make wrong Propositions, but argue and reason right from them: But Idiots make very few or no Propositions, and reason scarce at all. (160-1)

This passage makes clear that idiots possess no capacity for reason, repeatedly evident in Locke's statement that idiots are "deprived of reason" and "reason scarce at all." Mad men, however, are rendered very close to full personhood, as they have the ability to reason, but do so mistakenly.

We can compare the history of human knowledge that Locke offers in the *Essay* to his history of pre-contractual society and his example of American Indians in the *Second Treatise*. For Locke, "in the beginning all the World was *America*" (Ch. 5 §49). Similarly, in the *Essay*, Locke states,

He that will he encourages readers to carefully peruse the History of Mankind, and look abroad into the several Tribes of men, [...] will be able to satisfy himself, That there is scarce that Principle of Morality to be named, or Rule of Vertue [...] which is not, somewhere or other, slighted and condemned." (72)

While idiots and Indians are both used to represent inferior understanding, only idiots are bodily incapable of improvement. Savages, in contrast, disprove universal maxims because they actively subvert moral behavior through barbarous customs. Locke gives specific examples of Mengrelians who "bury their Children alive without scruple" and the Caribes who fatten their children so they can better eat them (25). Criticizing distant cultures, Locke contends that "at a

certain age, they kill or expose their parents, without any remorse at all” (105). Like idiots, the example of savages allows Locke to deride any phantasm of innate morality. However, while the idiot lacks any idea of moral precepts, the savage is critiqued for immoral beliefs: hence the former cannot learn while the latter have learned poorly. Bifurcating populations based on educability is consequential for Locke. While the active subversion of morals by savages attests to their ability to learn and thus potentially consent to political contracts, idiots’ bodily difference negates any possibility for political inclusion.

2. *Idiocy’s Bodily Difference*

After Locke exhaustively argues against the proposition of innate ideas, Book II describes the different human faculties responsible for understanding. Locke’s examination of human faculties is a significant bridge between the *Essay* and the *Second Treatise*. In both texts, Locke invests men’s faculties as the source of political power. In the *Second Treatise*, Locke states that “creatures of the same species and rank, promiscuously born to all the same advantages of nature, and the use of the same faculties, should also be equal one amongst another without subordination or subjection” (Ch. 2, §4). In the *Essay*, Locke maintains that “it is the understanding that sets man above the rest of sensible beings, and gives him all the advantage and dominion which he has over them” (43). However, unlike Locke’s seemingly wide grant of equal faculties in the *Second Treatise*, the *Essay* explores the prevalence of deficient and unequal faculties. Disabled identities are key figures in Locke’s argument because they exemplify deficiencies in human understanding. Similar to the relationship between idiocy and savages, sensory and physical impairments *partially* limit the powers of sensation and reflection respectively, while idiocy undermines understanding *entirely*. Because idiots lack entirely the

faculty of thinking, which is central to Locke's theory of personhood, they are subpersons and can be legitimately denied political standing.

Book II of the *Essay* delineates the multiple faculties behind individual understanding. "Let us then suppose the Mind to be, as we say, white Paper, void of all Characters, without any *Ideas*; How comes it to be furnished? [...] To this I answer, in one word, From *Experience*" (104). Locke divides experience into two categories: sensation and reflection. The first kind of experience is derived through the five senses, which Locke refers to as "*SENSATION*", which is how we come to know "*Yellow, White, Heat, Cold, Soft, Hard, Bitter, Sweet, and all those which we call sensible qualities*" (105). The second component of human understanding is "*REFLECTION*" which Locke describes as "*the Perception of the Operations of our own Minds within us, as it is employ'd about the Ideas it has got*" (Ibid). By representing *external* and *internal* sources of ideas, sensation and reflection exhaust the modes of understanding. Locke further divides reflection into two categories: "*Perception (or Thinking) and Volition (or Willing)*" (128) For Locke, "*The Power of Thinking is called the Understanding, and the Power of Volition is called the Will, and these two Powers or Abilities in the Mind are denominated Faculties*" (Ibid). Disabled identities represent different diminished human faculties, but idiocy's deficiency is distinct due to its permanence and totality.

For instance, when Locke uses the example of blindness and deafness to represent marred sensation, he compares it to similarly flawed sensations of nondisabled individuals. Locke encourages "any one try to fancy any Taste, which had never affected his Palate; or frame the *Idea* of a Scent he had never smelt: And when he can do this, I will also conclude that a blind man hath *Ideas* of Colours, and a deaf Man true distinct Notions of Sounds" (120). For Locke, it is just as preposterous to believe that a blind man can envision color, saffron, or the sun as it is to

believe in the innate condition of morality and ethics (96). Importantly, while blindness renders some tasks impossible, it does not preclude analogous impaired senses within nondisabled bodies. While “it is impossible for a blind man ... to read a legal notice displayed in a public place,” it is similarly “difficult for one who sees badly” (1997, 85). Additionally, Locke makes clear that different senses can partially amend impairment. Although some ideas—like color—can be transmitted only through sight, other ideas—like motion—are gathered through sight *and* touch. Although a blind person will never have ideas of color, he can accurately possess ideas gathered through touch, smell, taste, or sound. For Locke, the understanding of an unimpaired man will always surpass the understanding of one impaired, but this is only a difference in degree, not category. While people with sensory disabilities are rendered different, they are still inside the realm of human experience.

Locke’s treatment of physical disability symbolizes constrained liberty but not total exclusion. In the chapter entitled “Of Power,” Locke considers the nature of freedom, arguing that “so far as a Man has a power to think, or not to think; to move, or not to move, according to the preference or direction of his own mind, so far is a Man *Free*” (237). Paralysis is symbolic of an intact mind conjoined to an uncontrollable body. Locke frequently compares unruly bodies to tennis balls—both are powerless in regards to initiating direction and motion. Locke gives examples of a man who involuntarily hits himself or others out of a “convulsive motion” and another with palsy whose legs are incapable of “obeying the determination of his Mind” (239). Accordingly, Locke contends that “nobody thinks he has in this liberty: everyone pities him as acting by necessity and constraint” (238). For Locke, just as the tennis ball lacks the will to put itself in motion, the paralytic is equally powerless with a body that refuses to obey.

Despite comparisons with tennis balls and falling rocks, Locke both stigmatizes and incorporates these disabled bodies. The man who compulsively strikes himself is pitied, but not dehumanized. Locke prefaces his example of the paralytic with a proclamation that readers will be able to imagine plenty of moments of bodily unruliness within “our own bodies” (239), most evident in the fact that no man can control the beating of his own heart. Elsewhere, when Locke explores the characteristics of personhood, he dismisses bodily difference as any significant threat to human faculties, as long as that difference is not lodged in the faculties of the mind. Neither is constrained freedom solely the domain of the paralytic. In *Essays on the Law of Nature*, Locke remarks that a man may be so occupied as to neglect learning the content of civil laws and thus diminish his own freedom (85). Finally, the paralytic, incapable of motion, is not entirely incapable of liberty: whenever he prefers to be stationary rather than in motion, his motionlessness is voluntary (239). Here freedom is defined as the “power to act, or not to act” (245). By attaching pity, the ability to empathize, and the retention of some scope of liberty, Locke positions physically disabled bodies as different, but still persons.

Locke’s integration of and empathy with physically disabled persons was exceptional for his period in England when most people with physical deformities were mocked and ridiculed. Locke’s understanding of physical disability may have been shaped by his close association with Lord Shaftesbury who suffered with gout and had a silver tap surgically inserted to his side, a surgery performed by Locke (Lund 2005, 92). Lord Shaftesbury’s various disabilities were used to satirize his politics and his escape from England. Roger Lund quotes a popular poem depicting Shaftesbury’s flight: “Nay, though no legs I had, my gait was fleet, Oblig’d to travel, though I had no feet” (Ibid). Locke’s relationship with Shaftesbury might have mitigated the pervasive

disgust that so often accompanied people with physical impairments. In contrast, when Locke turns to idiocy, he magnifies the damaging currents evident in the broader cultural background.

While sensory and physical disabilities diminish the faculties of sensation and volition, idiocy represents the complete absence of perception, impervious to any and all ideas, signifying the permanent blank slate. Perception, Locke argues, depends on memory, a faculty that if “wanting, all the rest of our Faculties are in a great measure useless” (153). Without memory, the mind cannot move from the mere awareness of objects, to conceptualizing objects as ideas, to connecting ideas to create abstractions, and thus can never reason. Locke’s distinction between stupidity, dullness and perfect ignorance distinguishes between a mind that moves slowly and one that moves not at all. While the stupid and dull are slow to retrieve ideas, the perfectly ignorant man never acquires an idea because the sensation caused by an object leaves no impression on his mind, thus disappearing completely and instantaneously.

Unlike other impaired identities, Locke’s idiot figure comes closest to his description of fetuses that he compares to vegetables (117) and the very old “whom decrepid [sic] old Age has blotted out the Memory of his past Knowledge” (148). The old man that Locke describes has lost all perception: sight, hearing, smell, taste, and all his ideas.

How far such an [sic] one...is in his Knowledge, and intellectual Faculties, above the condition of a Cockle, or an Oyster, I leave to be considered. And if a Man had passed Sixty Years in such a State, as it is possible he might as well as three Days, I wonder what difference there would have been, in any intellectual Perfections, between him, and the lowest degree of Animals. (Ibid)

While Locke’s passage refers to an old man who has lost all sensation, the man he describes as spending “Sixty Years in such a State” is much more analogous to the idiot who spends his entire youth and adulthood as a permanent blank slate. Locke extends no compassion to the man who has lost his memory, but instead degrades him to “the lowest degree of Animals.”

Just as sensations instantaneously disappear from the mind of the idiot, so too does the idiot only partially and momentarily materialize throughout Locke's text. Because Locke's method of understanding requires consulting experience before entering judgment, the *Essay* is filled with descriptive cataloguing of diverse identities. His description of American Indians is buttressed with the accounts of their experiences with the Swiss; he gives a long example of a man physically deformed at birth who yet grew to be exceptionally rational; the madman who thinks himself a king⁵; and Locke even speculates extensively about a true story of a talking parrot. Locke fleshes out the contours of these examples, building on his own knowledge with the accounts of others. The idiot, in contrast, is never embodied by an actual person. Locke's failure to provide any examples of the idiot suggests that, while the idiot held important epistemological purpose for his *Essay*, the idiot was himself entirely uninteresting to merit particular attention. With no exemplary cases of idiocy, Locke collapses all idiots together, as if their shared absence of thinking ensures that idiots are altogether indistinct from one another. Although the idiot is epistemologically useful for Locke's theory, their absence implies that theorists needn't inquire into the details of their lives.

Consequently idiocy's bodily difference is permanent and total while the idiot figure itself never fully materializes in the *Essay*. This explains Locke's treatment of an assortment of marginalized groups—like savages, criminals, madmen, and the physically impaired—who are stigmatized because of their diminished human faculties, but not irreconcilable to normal experience. Their location, even if marginal, is still within normalized sensation and thus facilitates easier recognition of the difference between the disabled and nondisabled, savage and civilized, as well as the mad and the sane. All of these subjects maintain some capacity for

⁵ Mehta describes this scene as taken from one of Locke's many notebooks (1992).

reflection and reason. Even the fetus and old man diverge from the idiot: the fetus has the potential to perceive while the old man has a prior rational self that undergirds his present decrepit state. In sharp contrast, the bodily difference of the idiot renders him without past, present or prospective understanding, a perpetual blank slate.

3. *Idiocy as Subspecies*

The bodily difference of idiocy is consequential to Locke's theory of equality, in large part due to Locke's inability to maintain conceptual difference between *person* and *man*, the latter of which functions as the equivalent of human. This is not a conceptual quibble at the periphery of Locke's theory but penetrates directly into his theory of *human* equality. If personhood is a subcategory of the human species, idiots can retain their human status even if subpersons. However, Locke undermines this possibility by repeatedly collapsing the difference between person and man. After vesting "persons" with self-reflection, he repeatedly accords to "man" the ability and distinction of reason. For example, "*Man has a clear Perception of his own Being,*" and "*Man is supposed to be distinguished from Beasts*" (619, 668). While Locke harshly criticizes others for using the same terms "for one Collection of simple Ideas, and sometimes for another" (492), it is precisely his indeterminate usage of person and man on which his social contract will hinge.

According to Locke, human parents and birth does not bestow species membership. Instead, a species is distinctive because of its essence and the possession of this essence confers membership. "To be a man, or of the species man, and have the essence of a man, is the same thing" (298). Locke argues that the faculty of thinking separates the meaning of *man* from *person*. Man, according to Locke, is "nothing but a participation of the same continued

life...united to the same organized body” (215). A person, however, “is a thinking intelligent being, that has reason and reflection, and can consider it self as it self” (217). In contrast, a man cannot be considered a person without the ability to reason. Locke is adamant on this point, repeatedly stressing the dependence of personhood on consciousness. Accordingly, “without consciousness, there is no Person” (344), and again, “Self is that conscious thinking thing” (341, see also 335). C.F. Goodey articulates Locke’s argument that to belong to the species of man in Locke’s *Essay*, “each single member must conform with our idea of man and thus with our idea of what it is to be rational” (1996, 93). By using man instead of person, Goodey’s own analysis of Locke reiterates the slippery conceptual demarcations between categories. The bodily difference of idiocy—lodged in the faculty of thinking—is directly situated on the border between man and person.

Locke does not evade the questionable personhood status of idiots, but faces it directly in his discussion of changelings. In the seventeenth century, a changeling was defined as a “half-witted person, idiot, [and] imbecile,” as well as a “child (usually stupid or ugly) supposed to have been left by fairies in exchange for one stolen child” (*Oxford* 2007). Locke himself describes changelings as “drivelling, unintelligent, [and] intractable,” “half Beast, and half Man,” and “ill-formed and mis-shaped productions” (571-2). Changelings are used by Locke to debunk two misplaced assumptions: “That all Things that have the outward Shape and Appearance of a Man, must necessarily be designed to an immortal future Being, after this Life. Or, secondly, that whatever is of humane Birth must be so” (570). For Locke, being born of two rational humans is not enough to bestow human membership. When Locke conjoins the driveling intelligence of idiots with the misshapen form of beasts, the result is hardly human, but rather monstrous.

Similarly, in the chapter of “Names of Substances”, Locke uses the examples of naturals and changelings to question the stability and essential markers of the human species. Locke poses the questions,

Shall not the difference of Hair only on the Skin, be a mark of a different internal specific Constitution between a Changeling and a Drill [baboon], when they agree in Shape, and want of Reason, and Speech? And shall not the want of Reason and Speech, be a sign to us of different real Constitutions and *Species*, between a Changeling, and a reasonable Man? (451)

This passage speaks both to the importance of reason and speech as a requirement for species membership and Locke’s own slippage between the categories of personhood and man. Similarly, in regards to naturals, “There are Creatures in the World, that have shapes like ours, but are hairy, and want Language, and Reason. There are Naturals amongst us, that have perfectly our shape, but want Reason, and some of them Language too” (450). Locke makes clear: the absence of reason reduces one to bestiality.

Locke’s treatment and construction of idiocy is irreconcilable with his own theory of equality. Incapable of acquiring ideas, they are unable to muster even the most rudimentary elements of human understanding. Even Waldron concedes that “among the very grossest differences in mental capacity, Locke is evidently not committed to any thesis of equality” (73). Although Waldron explicitly defends Locke’s theory of *human* equality, he is somehow undisturbed with Locke’s dehumanization of the very old, idiots, and lunatics. If Waldron agrees with Locke’s treatment of idiocy as outside human membership, he presumably assumes that it poses no threat to Locke’s larger political project. Drawing on Locke’s *Second Treatise*, the next section argues that Locke’s treatment of idiocy cannot be ignored because its exclusion undergirds the possibility of consent and the legitimacy of political power.

III. Idiocy's Threat to Liberal Equality in the Social Contract

In the *Second Treatise*, Locke addresses the problem of idiocy in his chapter on “Paternal Power.” He concedes that political accountability is only expected from a person who possesses “a state of maturity wherein he might be supposed capable to know that law, that so he might keep his actions within the bounds of it.” In this regard, while children are temporarily denied freedom until they reach the age of reason, idiots and lunatics never achieve such a state. If anyone is defective in reason, according to Locke,

he is *never capable of being a free man*, he is never let loose to the dispose of his own will (because he knows no bounds to it, has not understanding, its proper guide), but is continued under the tuition and government of others, all the time his own understanding is incapable of that charge. And so *lunatics* and *ideots* are never set free from the government of their parents. (Ch VI § 60)

Because idiots are deprived of reason, they cannot be sovereign to any law, either their own or the magistrate's. They are never able to dispose of their own property; they are incapable of understanding the law of nature; and they are never to be set free. Deficient of reason, the idiot cannot be trusted with ownership of his own body. Referring to Hooker, Locke makes a similar distinction between idiots and lunatics as in the *Essay*, regarding only the former as permanently deficient whereas madness may be temporary.

While idiots are incapable of being subject to their own law and are also absolved from civil law, the same chapter explains how the idiot is permanently subject to parental power. Because the idiot has no faculty of thinking, “some body else must guide him, who is presumed to know how far the law allows a liberty” (Ch. VI, § 59). Here the Greek meaning of idiot-as-private-person is nested within Locke's notion of the idiot as cognitively deficient: because the idiot is incapable of reason, he is entirely removed from the public realm and is enfolded into the private sphere completely. Either the idiot is rendered under the guardianship of the Crown or

remains under the constant tutelage of his parents. In essence, the idiot's life is depoliticized and his very body dissolves into the property of the sovereign.

On the one hand, Locke's removal of idiots from the civil realm could be understood charitably. Parental guardianship is "no more than that duty, which God and nature has laid on man, as well as other creatures, to preserve their offspring, till they can be able to shift for themselves." Because the care of offspring is man's duty, idiots reside under the benevolent care of their parents. Likewise, Barbara Arneil argues "that disabled people [in Locke's theory] should be sustained in accordance with the Christian principle of charity" (2009, 222). Although the idiot is outside the bounds of law, he is necessarily under the province of charitable care. Like Rawls's more recent solution, this approach argues for a division between liberalism and charity, the public and private, citizenship and idiocy.

However, we have good reasons to be skeptical of this resolution. First, Locke argues that very few men are wise enough to rule benevolently. While Locke grants that "if Men were better instructed themselves, they would be less imposing on others," he also assumes that most men are too lazy or too busy to pursue rational instruction, and thus unfit to be sovereign over others. Moreover, Locke describes the duty to care for offspring as temporary; insofar as idiots require perpetual care, they transgress the moral bounds of God's duty. Second, Arneil's charitable interpretation is plausible if we ignore Locke's dehumanizing treatment of idiocy in the *Essay*. Here the assumption of charity is undermined by the repeated negative and disparaging depiction of idiots as driveling, misshapen, and unintelligent. This makes it increasingly difficult to reconcile the Christian principle of charity with Locke's discernable disdain for idiots. Locke's treatment suggests that the idiot figure, permanently subject to private and familial law, is likely subject to despotic and unreasonable rule. Because idiots are entirely isolated to the private

realm, they are detached from any outside authority who could presumably intercede on their behalf. Unable to own his own body, the idiot has no recourse to justice.

Locke's treatment of criminals, which Waldron does acknowledge is a significant problem for Locke's theory of equality, similarly depicts a dismal future for the idiot figure. By committing a crime, Locke argues, "a man so far becomes degenerate, and declares himself to quit the principles of human nature, and to be a noxious creature" (Ch 2 §10). In the chapter on the state of war, Locke describes the treatment of men who, because of their failure to conform to the state of nature, can be treated like animals.

and one may destroy a man who makes war upon him, or has discovered an enmity to his being, for the same reason that he may kill a *wolf* or a *lion*; because such men are not under the ties of the commonlaw of reason, have no other rule, but that of force and violence, and so may be treated as beasts of prey, those dangerous and noxious creatures, that will be sure to destroy him whenever he falls into their power.

Although Locke is not discussing the idiot but rather a noxious creature "who attempts to get another man into his absolute power," he likens both idiots and criminals to animals. In the *First Treatise*, Locke firmly establishes that God has given man dominion over animals. Emergent from the *Second Treatise* is the enfolding of idiots under the care of full persons, entirely erased from the purview of justice, and debased to the status of nonhuman animals.

Returning to Waldron, although he considers Locke's theory of equality the best foundation that liberalism has to offer, his own analysis of the consequences of human and nonhuman *inequality* should make liberals uneasy. According to Waldron, abstraction is crucial to Locke's theory of equality because it establishes a relationship between God and man, a relationship that entails certain requirements. Waldron illustrates the kind of moral behavior God requires:

When I catch a rabbit, I know that I am not dealing with a creature that has the capacity to abstract, and so I know that there is no question of this being one of God's special servants, sent into the world about his business. But if I catch a human in full possession of his faculties, I know I should be careful how I deal with him. (80)

Despite the fact that Waldron is seemingly *defending* Locke's theory of equality, his illustration of the rabbit should make us suspicious of the well-being of idiots – and anyone else with questionable mental faculties. Rabbits were not exactly the kind of creature to which Locke's *Essay* repeatedly returned. To rephrase Waldron's claim, If I am the guardian of an idiot, and "I know that I am not dealing with a creature that has the capacity to abstract, and so I know that there is no question of this being one of God's special servants," there is little reason why I should extend the principle of charity, or goodwill, or little else to the idiot figure. Nor shall I face any consequence for God has rightly given me dominion over nonhuman creatures.

All of this should raise fresh concerns for liberal equality. In contrasting Locke with Rousseau, Arneil argues that "while reason defines the *citizen* for Locke, it defines what it is to be *human* or a *person* for Rousseau" (224). Arneil thus separates two modern discourses that stigmatized disability: liberal strains that limited citizenship and republican that curtailed human membership. In the latter group theorists like Rousseau and Kant exemplify radical dehumanization. However this analysis shows that Locke was a precursor to this development. The normative consequences of liberalism's reliance on reason are not confined to issues of political membership, but also draw the boundaries of the human species.

Locke's theory of human equality, consequently, looks significantly less humane. Significantly, not only does Locke exclude the idiot, but he encodes within his theory of equality a mechanism of exclusion. Bodily difference, insofar as it affects the faculty of thinking, patrols the border between human and nonhuman, circumscribing the bounds of justice. Locke's

technology for inequality is in part made more successful because it is a kind of difference difficult to categorize or discern. According to Locke, “‘Tis an hard Matter to say where Sensible and Rational begin, and where Insensible and Irrational end” (666). While the task may be difficult, it has not been avoided. Indeed, the history of idiocy confirms that the ranks of the irrational are both porous and unpredictable, as the category itself shifts in size, shape and membership. Not confined to issues of cognitive disability, bodily difference – whether real or imagined – has discredited the political and human standing of women, nonwhites, non-Western, and more. The imprecision of discerning bodily difference is exactly that which accords it so much power and ultimately undermines Locke’s theory of human equality.

IV. Conclusion: The Origin of the Disabled Contract

In this chapter, I have described idiocy’s recurrent appearance in John Locke’s *An Essay Concerning Human Understanding*, demonstrating how Locke’s construction of personhood is constituted by the idiot figure it disavows. Locke plays a crucial role because he is significant to liberal theories of personhood *and* because he helped position idiocy as a central category of Enlightenment interest. Locke’s social contract is thus underwritten by the *disabled contract* whose terms construct idiocy as a static, private, and subhuman category that threatens to undo the legitimacy of consent.

Locke’s disabled contract is forged throughout his writings, but most of its details are provided in *An Essay Concerning Human Understanding* and the *Second Treatise*. The terms of the disabled contract are not hidden or disguised, but rather plainly described. Although the contract promises transformation—from natural man to citizen—the static emptiness of the idiot’s mind upturns the terms of the contract, transforming idiots from human to a subhuman

species. Because idiots can never consent, they cannot enter into the social contract or political membership. The disabled contract thus seals idiots in the private realm, naturalizing and depoliticizing their existence.

While we may criticize Locke for his language or his attitude towards the mentally impaired, we would be mistaken if we surmised that his disabled contract was a product of theoretical confusion, or if we thought his exclusion of idiots an outcome of personal stigma that somehow impeded the consistency of his political thought. Although problematic, the disabled contract coheres with the underlying logic of the social contract. In subsequent chapters I show that the cohesiveness of the disabled and social contracts is due to the ways in which the act simultaneously: proponents of the social contract—by privileging rationality and hinging political legitimacy on consent—always enacts the disabled contract.

Insofar as Locke's disabled contract codifies the terms of personhood and the human species, which thus proscribe the terms and membership of the social contract, it can be conceptualized as an *epistemological contract*. Although the epistemological contract defines personhood and the scope of politics, these decisions are not construed as political, but rather become naturalized as implicit and uncontested assumptions. Subsequent social contract theorists will continue Locke's legacy as they constantly reinscribe the terms of the disabled contract as static, private, and subhuman. In the next chapter, I explore the ways in which John Rawls's revival of social contract theory simultaneously resurrects the disabled contract.

CHAPTER III

DISABILITY AS THREAT: JOHN RAWLS AND THE DISABLED CONTRACT

This chapter further explores the *disabled contract* in the contemporary liberal political thought of John Rawls. In the last chapter we saw the terms of Locke's disabled contract and the way in which he defined personhood by disavowing idiocy. In this chapter we see the disabled contract more clearly as a device that mirrors the society's own anxieties about who does and does not belong within society. The problem for people with cognitive disabilities is not limited to their exclusion from political and human membership, but that in addition, in order for the contract to maintain its coherence, it must fundamentally deny the very existence of disabled lives. Problematically, this denial is difficult to resist. Although critics lambast Rawls's theory of personhood for its narrow construction, they similarly premise political membership on cognitive capacities.

Like Locke's social contract, Rawls maintains the equality of each and every person, but his construction of personhood leaves him unable to recognize people with cognitive disabilities *as* people. The disabled contract thus *disables* the universal terms of the social contract. Substantively, the theories of Locke and Rawls share key features: both privilege rational capacity, depoliticize disability, and remove disability from the political sphere. The removal of disability, however, only occurs once disability's epistemological function—used to define personhood and politics—is exhausted. For both Locke and Rawls, cognitive disability divides personhood into normal and subnormal categories. But here the theorists' methods diverge.

While Rawls reinforces the *terms* of Locke's disabled contract, his method of ideal theory alters how the contract *functions* in social contract theory.

Because Locke's theory of knowledge requires consulting experience, he does not obscure idiocy's role. Rawls, in contrast, employs ideal theory in which conceptions of the person and justice are seemingly formed without recourse to studying systematic patterns of injustice. The ideal dimension of Rawls's social contract theory forces him to enact a *double disavowal*: he constructs personhood by denying the full human status of mentally disabled lives, and then, by depoliticizing disability, disavows the epistemological function disability actually plays in the formation of his theory. Rawls's ideal contract in the original position, purportedly uninformed by any descriptive criteria, is in fact already informed by the descriptive dimensions of disability as written by the nonideal world. Thus, although the contracting moment is meant to design an ideal world unaffected by the vagaries of prejudice, the discrimination of disability is naturalized as a factual dimension of society.

In this chapter, I focus on the methodological dimension of Rawls's version of social contract theory as ideal theory both because the substantive dimensions of Rawls's treatment of disability have been critiqued (Kittay 1999; Nussbaum 2006) and because the methodological critique remains incomplete (Young 2006). Part one of this chapter reviews the debate between ideal and nonideal theory and focuses on the particular problems ideal theory raises for the cognitively disabled. Section two explores the disabled contract embedded in Rawls's theory. Although he puts aside disability in *Political Liberalism*, I uncover the ways in which disability already infiltrates his theoretical framework, exemplified in his earlier work and *A Theory of Justice*. More specifically, Rawls's original position fortifies ableist prejudice rendering it incapable of fulfilling social contract's promise of moral egalitarianism. Section three argues that

Rawls's disabled contract enforces an epistemology of disavowal, in contrast to what some theorists describe as an epistemology of ignorance. Because there are crucial differences between disavowal and ignorance, the same tools to uncover racial and sexual bias within Rawls's construction of personhood prove inadequate to understanding his treatment of cognitive disability.

I. Ideal Theory and the Problem of Normalization

In *A Theory of Justice* (1971[2003]), Rawls describes the ideal components behind his theory of justice, including: that “everyone is presumed to act justly and to do his part in upholding just institutions” (8); that he assumes strict rather than partial compliance; and that the society for which the principles are designed is a well-ordered society. Importantly, this account has no recognition of injustices as already experienced in the world. According to Rawls, “The reason for beginning with ideal theory is that it provides, I believe, the only basis for the systematic grasp of these more pressing problems [of injustice]” (9). For Rawls, understanding the “nature and aims of a perfectly just society is the fundamental part of the theory of justice” (9).

Charles Mills, in “Ideal Theory as Ideology,” argues that nonideal theory—which first takes into account systematic patterns of justice—is a better method of theorizing injustice *and* justice. Mills argues that ideal theory is “in crucial respects obfuscatory, and can indeed be thought of as in part ideological, in the pejorative sense of a set of group ideas that reflect, and contribute to perpetuating, illicit group privilege” (2005, 166). Focusing primarily on the overwhelming whiteness of philosophers, Mills argues that ideal theory, as exemplified by the work of John Rawls, masks the history and current realities of racial subordination. Although

Rawls argues that ideal theory is the best tool to address injustices, neither he nor his followers ever analyze injustice, but rather continually return to perfecting the ideal principles of justice—a process that Amartya Sen argues that Rawls himself recognized as impossible (2009). For Mills, ideal theory is an endless distraction, forever escaping the demands of injustice.

Importantly for this project, ideal theory specifically idealizes *cognitive* capacities.

According to Mills, ideal theory promotes the belief in “idealized capacities”:

The human agents as visualized in the theory will also often have completely unrealistic capacities attributed to them—unrealistic even for the privileged minority, let alone those subordinated in different ways, who would not have had an equal opportunity for their natural capacities to develop, and who would in fact typically be disabled in crucial respects. (2005, 169)

Disabled capacities, for Mills, are an outcome of inequality and systematic injustice; Mills does not confront the ways in which the cognitively disabled are excluded from Rawls’s conception of idealized capacities. Ideal theory promotes two distinct fictions in relation to idealized capacities: it neglects inequalities in cognitive capacities—whether these inequalities are caused by injustice or impairment—and it exaggerates the abilities of the privileged, constituting a class of not just able-bodied but *super-bodied agents*. Unlike Locke who constantly returned to the fragilities of human reason in the *Essay*, Rawls’s reliance on ideal theory mythologizes rational capacity as rational perfection.

Mills’s critique of ideal theory is comparable to Iris Young’s conceptualization of *normalization*. Focusing on Rawls’s construction of personhood, Young argues that it normalizes one particular kind of identity by rendering deviant alternative ways of being in the world. Normalization—previously referred to as cultural imperialism—is one of the five faces of injustice that Young articulates in *Justice and the Politics of Difference*, including “exploitation, marginalization, powerlessness, cultural imperialism, and violence” (1990, 40). “To experience

cultural imperialism means to experience how the dominant meanings of a society render the particular perspective of one's own group invisible at the same time as they stereotype one's group and mark it out as Other" (59). According to Young, groups do not face oppression "to the same extent or in the same ways" (59), and many of these forms of oppression can overlap in different ways.

For Young, the "situation of people with disabilities illustrates the problems of normalization most starkly" (2006, 95). Injustice can occur, according to Young, "because others identify [some] as belonging to groups which dominant ideologies construct as abnormal, problematically different, or despicable" (95). Young criticizes Rawls for perpetuating able-bodied normativity when he brackets people with disabilities outside of the original position because of their inability to make public contributions, instead of interrogating societal barriers, able-bodied standards, and prejudice as the causes of disability's disenfranchisement. Offering the example of a person in a wheelchair, Young demonstrates that readdressing mobility devices, such as stairs and feet-operated machines, could alter the contribution-potential of disabled populations to the public. With inclusive attitudes and accessible spaces, the supposed *disability* would cease to exist.

Although essential, Young's critique is incomplete. She recognizes the ways in which normalization affects people with disabilities, but her own example of wheelchair users threatens to reinforce the precariousness of the cognitively disabled. With physical obstacles removed, the wheelchair user can now achieve Rawls's construction of human behavior in the "usual sense" by "contributing" to society as an autonomous agent. In effect, Young reaffirms that the *usual* way of being in the world is autonomous, productive and capable.

Ideal theory thus promotes an illusory belief in a strict dichotomy between able/productive and disabled/incapable that is difficult to resist. Robert McRuer, in his development of a queer/disabled theory, calls on Judith Butler's understanding of gender trouble to promote a similar "ability trouble" in which the "problem" of disability is not situated in disabled bodies but rather the "inevitable *impossibility*, even as it is made *compulsory*, of an able-bodied identity" (2006, 10 emphasis added). Feminist, critical and queer critiques reveal the theoretical and cultural import of disability: that it informs our norms, ideals, and societal expectations. Rawls's construction of personhood, likewise, is saturated by the disabling norms and attitudes regarding the cognitively impaired.

In effect, Rawls's conception of personhood demands a cluster of compulsory cognitive capacities, most notable of which is rationality. *Compulsory rationality* builds on feminist and queer theorists understanding of compulsory heterosexuality in which "lesbian experience is perceived on a scale ranging from deviant to abhorrent, or simply rendered invisible" (Rich 1980, 632). A similar process of stigmatization and invisibility undergirds Rawls's treatment of people with cognitive disabilities and, insofar as they are unable to cultivate a rational identity, their lives are marked as pitiful, repulsive, or nonexistent. Rawls's methodological commitment to ideal theory forces him to deny the ways in which disability actually functions in his theory. Rawls's ideal theory necessitates an understanding of ideal agents—who are not only nondisabled, but formed in relation to a disavowed disabled reality. Here, both the meaning of normal and deviant become fictive tropes in Rawls's theory, used to bolster the existence of one another. In the following section, I argue that Rawls's repeated disavowal of the presence of disabled people from the realm of his theory intensifies the epistemological role of disability.

II. Rawls's Disabled Contract

In this section I explore the disabled contract in the work of John Rawls and how it enacts a double disavowal. By double disavowal, I refer to the ways in which Rawls's disabled contract has two stages. At the first stage, Rawls uses cognitive disability to draw the limits of key concepts, including personhood, the difference principle, and the principle of redress. This stage of the contract functions similarly to Locke's disabled contract. However, Rawls goes one step further. At the second stage, Rawls removes disability from theoretical consideration, disavowing the role it actually already played constructing personhood, equality, and liberal freedom. This second move disavows that the first stage even occurred. Metaphorically, if the first stage builds a border between the super-abled and disabled, the second stage renders this border and the disabled bodies that populate it invisible.

1. *Defining Personhood*

Rawls's description of his own theoretical purpose—to find a theoretical foundation that protects the rights of each person in society—potentially ensures the rights of people with cognitive disabilities. The revival of social contract theory by Rawls is motivated by the dangerous pitfalls exposed by utilitarianism, most significantly, the threat of sacrificing the lives of the few for the greater good of the many. According to Rawls,

If, then, we believe that as a matter of principle each member of society has an inviolability founded on justice which even the welfare of everyone else cannot override, and that a loss of freedom for some is not made right by a greater sum of satisfactions enjoyed by many, we shall have to look further for another account of the principles of justice. ([1967]1999, 131)

Similarly, Rawls argues that inequality is justified only if it “will work for the advantage of *every* person engaging in it” ([1971] 1999, 195). Occasionally, Rawls offers a broad understanding of

the person. In 1963, he suggests that the “term ‘person’ is to be understood in a general way as a subject of claims.” In this context, person refers to human and nonhuman entities, including “nations, corporations, churches, teams, and so on” ([1963] 1999, 75).

Problems arise, however, when Rawls narrows the construction of personhood. Defining personhood, for Rawls, is a crucial component of any theory of justice. Accordingly,

When fully articulated, any conception of justice expresses a conception of the person, of the relations between persons, and of the general structure and ends of social cooperation. To accept the principles that represent a conception of justice is at the same time to accept an ideal of the person, and in action from these principles we realize such an ideal. ([1975] 1999, 254-5)

Defining personhood is both necessary and preliminary to generating the principles of justice.

Rawls’s person is eventually invested with numerous idealized capacities. In *Political Liberalism*, Rawls argues that a theory of justice necessitates a conception of society and the person; we begin with “the idea that society is to be conceived as a fair system of cooperation over time between generations, we adopt a conception of the person to go with this idea” ([1971] 2003, 18). In *Justice as Fairness: A Restatement*, Rawls situates his conception of the person within a long history of Western political thought:

Since ancient Greece both in philosophy and in law, the concept of the person has been that of someone who can take part in, or play a role in, social life, and hence who can exercise and respect its various rights and duties (2001, 29).

In an article published in 1963, Rawls asks “to whom is the obligation of justice owed?” and replies “to those who are capable of a sense of justice” (1963, 281). Rawls similarly argues in *Political Liberalism* “that a person is someone who can be a citizen” (2005, 18). Here we see Rawls person as cooperative, social, and cognitively sophisticated. Like Locke, Rawls’s conception of personhood conflates human and political membership.

Similar to Locke, Rawls attempts to distinguish between the meanings of personhood, citizenship, and the human species. Rawls contrasts his conception of personhood with the conception of a “human being” which, he argues, is not a normative concept, but rather has simply a biological or psychological meaning (2001, 29). In contrast, Rawls states that his conception of the “person as free and equal is a normative conception: it is given by our moral and political thought and practice” (2001, 29). But as with Locke, the division between personhood and human is not easy to maintain.

In *Political Liberalism*, Rawls explicitly excludes disability from his normative framework. According to Rawls, “I put aside for the time being these temporary disabilities and also permanent disabilities or mental disorders so severe as to prevent people from being cooperating members of society in the usual sense” (2005, 20). Rawls explains: because he begins with a conception of society as primarily a system of cooperative relationships, and because people with severe disabilities are incapable of cooperation, they are outside normative definitions of personhood ([1971] 2003, 18). Rawls defends his exclusion of mental disability on the following grounds: “while we begin with an idea of the person implicit in the public political culture, we idealize and simplify this idea in various ways in order to focus first on the main question” (2005, 20). Here disability is presumed an entirely peripheral concern, capable of being excised without dislodging any other aspects of Rawls’s theory.

Rawls equivocates on whether justice as fairness can partly or fully accommodate the needs of people with mental and severe disabilities.

With regard to the problems on which justice as fairness may fail [such as severe permanent disability], there are several possibilities. One is that the idea of political justice does not cover everything, nor should we expect it to. [...] How deep a fault this is must *wait until the case itself can be examined*. Perhaps we simply lack the ingenuity to see how the extension may proceed. In any case, we should not expect justice as fairness, or any account of justice, to cover all cases

of right and wrong. Political justice needs always to be complemented by other virtues. (2005, 21, emphasis added)

Rawls reasserts the substatus of people with cognitive disabilities and sequesters them outside of politics. Reminiscent of Locke's role of charity described in chapter two, people with disabilities must rely on the virtue of others. As shown in the last chapter, however, Locke's charitable move is undermined by his constant depiction of idiots as subhuman whose status in God's kingdom remains uncertain. Just as in Locke's work, Rawls's treatment of people with severe disabilities as essentially incapable of cooperation bolsters the normative devaluing of disabled lives.

Rawls statement that we *must wait until the case can be examined* reveals his assumption that his theory is unscathed by the effects of disability. If this is the case, we might follow the critique of Charles Mills, who criticizes Rawls for constantly postponing nonideal and difficult problems, such as the effects and consequences of racism, slavery, and Jim Crow legislation (2009a). Disability, however, already infiltrates the political thought of Rawls, influencing the construction of the original position, his conception of personhood, and the ideal liberal society which his theory propounds. Consequently, the problem for Rawls is not that issues of disability are postponed, but rather that the exclusion of people with cognitive disabilities informs his theory; in fact his theory is *founded* upon it.

Cognitive disability constitutes the backdrop to normal functioning and, therefore, personhood. In the article "A Kantian Conception of Equality" ([1975] 1999), Rawls assumes that "everyone has physical needs and psychological capacities within the normal range, so that the problems of special health care and of how to treat the mentally defective do not arise" (259). Rawls explicitly removes the possibility of disability from inhabiting the least advantaged class. Rawls argues that persons "possess to a sufficient degree the requisite powers of moral personality and the other capacities that enable them to be *normal and fully cooperating*

members of society over a complete life” (2001, 18 emphasis added). Although agents in the original position are equally ignorant of their race, ethnicity, and sex, they do know that their intelligence falls “within the normal range” (2001, 15; see also 8). He further argues that persons must have “the requisite minimum degree the moral and other capacities that enable us to take part fully in the cooperative life of society” (2001, 21).

Problematically, Rawls does not specify what he means by the normal range or the requisite minimum degree. In a footnote in *Political Liberalism*, Rawls states that “the normal range” is specified as follows:

since the fundamental problem of justice concerns the relations among those who are full and active participants in society, and directly or indirectly associated together over the course of a whole life, it is reasonable to assume that everyone has physical needs and psychological capacities within some normal range. (272)

But this doesn’t define it at all! He only states that the normal range is defined within “some normal range.” He adds, however, that with this specification, “the problem of special health care and how to treat the mentally defective are aside. If we can work out a viable theory for the normal range, we can attempt to handle these other cases later” (272). The normal range is defined against the mentally defective. Similar to Mills’s critique of Rawls on race, Rawls never finds the time to handle these other cases. In 1975, Rawls made an almost identical statement in regards to health care and mental defectives: he was still setting disability aside after twenty years of identifying the problem.

In a much earlier article, published in 1951, Rawls does gesture towards the requirement of the normally intelligent agent to anchor his theory, which at the time he referred to as “competent moral judges.”

A competent moral judge is expected to have a certain requisite degree of intelligence, which may be thought of as that ability which intelligence tests are designed to measure. The degree of this ability required should not be set too

high, on the assumption that what we call ‘moral insight’ is the possession of the normally intelligent man as well as of the more brilliant. Therefore I am inclined to say that a competent moral judge need not be more than normally intelligent” (1951 [1999], 2).

Here, Rawls suggests that normal can be accurately discerned from intelligence tests—tools specifically designed to observe mental deficiency and abnormality during the eugenic era (Davis 1995)—a troubled history that chapter four explores in more detail. The language of normal implicitly calls into existence the realm of the *subnormal*. Rawls thus introduces into the original position a depiction of normal and abnormal that he imports from the nonideal world. By continually depicting rational persons as *normal* and emphasizing the *main* and *basic* questions of justice, Rawls constructs cognitively disabled lives as peripheral, subnormal, and trivial.

Rawls’s removal of people with severe cognitive disability from citizenship is both consistent and dissimilar to Locke’s treatment of idiocy. On the one hand, both theorists equate the cognitively disabled to a subpersonhood category, located somewhere between human and nonhuman animals. On the other hand, Rawls’s method of ideal theory not only removes the disabled, but simultaneously creates a class of super-abled agents whose cognitive capacities are idealized. In contrast, Locke’s attention to experience made him wary of men’s rationality more broadly. Throughout Locke’s writings, he was careful to acknowledge the many causes behind deficient reason: bodily defect, underdeveloped senses, amoral acculturation, old age, and laziness (whether due to poverty or privilege). While Locke and Rawls share in their removal of the cognitively disabled, Rawls’s oscillation between describing agents as either ideal or normal, functions to intensify the division between the abled and disabled. By idealizing *normal* capacities, Rawls’s theory must evade disability more intently, evident in his multiple iterations of the contract of disadvantage.

2. *Contract of Disadvantage between the Normal & Defective*

In *A Theory of Justice*, Rawls aims to “present a conception of justice which generalizes and carries to a higher degree of abstraction the familiar theory of the social contract as found, say, in Locke, Rousseau, and Kant” ([1971] 2003, 10). Rawls articulation of the original position is indebted to Kant’s conception of social contract theory. Rawls is looking for “a reasonable decision procedure which is sufficiently strong [...] to determine the manner in which competing interests should be adjudicated” ([1951] 1999, 1). Rawls’s social contract theory is defined by his original position, which secures justice through abstraction and reason. Fairness is safeguarded by the veil of ignorance, in which “no one knows his place in society, his class position or social status, nor does any one know his fortune in the distribution of natural assets and abilities, his intelligence, strength, and the like” ([1971] 2003, 11). Rawls’s statement that individuals have no knowledge of their “intelligence” potentially offers Rawls’s moral agent in the original position the opportunity to imagine the needs of the cognitively disabled in the actual world, or to at least represent someone else who is cognitively disabled. Indeed, Rawls suggests that parties *can* speculate about “the possibility that their powers [of rationality] are undeveloped and they cannot rationally advance their interests, as in the case of children; or [...] those seriously injured or mentally disturbed” ([1971] 2003, 218-9).

Rawls, however, curtails this possibility. In *A Theory of Justice*, agents in the original position “assume that in society they are rational and able to manage their own affairs,” and hence, not profoundly disabled ([1971] 2003, 218). In later articulations of the original position, Rawls’s agents are unaware of their exact intelligence, but they know their cognitive capacities fall within the normal range. Hence their “real” identity mirrors their identity as abstract agents in the original position: although they may have no awareness of their descriptive features, they

know themselves to be rational, as Rawls has specified a basic feature of the parties as “rational and mutually disinterested” ([1971] 2003, 12).

In relation to disability, the veil of ignorance has an additional dimension of *social* ignorance. Parties are not only unaware of their own identity, but also, they have no concept of the world as it currently is. Rather, by corresponding to the state of nature, the original position is prior to any political or institutional structure. Because participants are designing institutions at the very origin of society, they have no need to conceptualize any account of corrective justice, since there is no sense of former injustices to surmount (Mills 2008; Pateman 2008).

This assumption of social ignorance is problematic for people with cognitive disabilities. Rawls’s removal of disability is in fact already informed by the construction of disability. Rawls’s removal of disability through specifying the *normal range* not only maintains the simplicity of his theory, but protects agents in the original contract from experiencing pity and anxiety. According to Rawls,

I also suppose that everyone has physical needs and psychological capacities within the normal range, so that the problems of special health care and of how to treat the mentally defective do not arise. Besides prematurely introducing difficult questions that may take us beyond the theory of justice, the consideration of these hard cases can distract our moral perception by leading us to think of people distant from us whose fate arouses pity and anxiety. ([1967] 1999, 259; see also [1971 [2003], 84)

Several troubling assumptions pervade this statement. First, because parties are constructed as socially ignorant, the pity and anxiety that disability arouses is naturalized as automatic reactions to bodily and mental difference. Because agents have no knowledge of the actual prejudice, built barriers, failures in long-term care or spatial segregation that people with cognitive disabilities actually experience in the nonideal world, their anxiety and pity is seemingly driven entirely by the bare facts of disability—whatever those might be in a decontextualized world. Second, by

describing the “mentally defective” as “distant from us” Rawls naturalizes this difference as insurmountable as if disability is so abnormal as to be unimaginable. In fact, awareness of disability threatens to derail moral reasoning entirely. Rawls adds that “the problem of justice concerns the relations among those who in the everyday course of things are full and active participants in society” ([1971] 2003, 84). Like the language of normal and basic, Rawls construction of “everyday course of things” assumes that confrontations with disabled people only occur irregularly, if at all. Because the mere awareness of disability is apt to arouse undue anxiety, all traces of disability must be removed from the original position.

Rawls’s original position, however, is not the only contractual moment described in *A Theory of Justice*. Indeed, Rawls provides multiple iterations of a contract between the most and least advantaged—a subcontract moment in which individuals involved “do know their talents and abilities” ([1963] 1999, 81). The gradual evolution of the contract of disadvantage discloses Rawls’s increasing awareness and disavowal of disability. The contract of disadvantage first appears in a 1963 article “Constitutional Liberty and the Concept of Justice,” then in a 1968 article “Distributive Justice: Some Addenda, then in *A Theory of Justice*, and finally, in *Justice as Fairness: A Restatement*. Because Rawls repeatedly returns to this subcontract moment, we can presume its level of considerable importance.

Rawls’s earliest formulation of the contract between the most and least advantaged fails to circumscribe the range of capabilities. In the contract of disadvantage of 1963, Rawls instructs us to “fix attention on two representative men, one for the upper and one for the lower ranges of ability” ([1963] 1999, 82). On the basis of this description, there is nothing about the least advantaged class that forecloses the possibility of disability. Indeed, Rawls conjures differences in ability when he describes the two men as the “more” and “less able” ([1963] 1999, 82). These

two men have to decide whether it is better to enter a caste society in which one's place in society is defined by birth, or the society which is designed by the two principles of justice, particularly by the difference principle that guarantees equality of opportunity which rewards those with the most talent and willingness to improve one's talents.

Although not stated, only the least advantaged man is important in deciding the contract of disadvantage. According to Rawls, the most talented man will always choose the society ordered by the difference principle because here, with his reliable toolkit of talent, he is guaranteed success, whereas the caste society represents risk and possible subordination. The least talented, however, might risk his chances in a caste society rather than an open market. Because he is the "less able" on the "lower range of ability," he cannot garner any success in a merit-based economy. In contrast, the caste society offers the opportunity to be born into a position of advantage that far exceeds his inherent disadvantages. In the caste society, the slim possibility of advantage seemingly surpasses the certain impossibility of advantage in the meritocracy. Rawls argues, however, that the least advantaged is better off in the society of the two principles of justice because any advantages that accrue to the most advantaged must also improve the lives of the least talented. No such guarantee exists in the caste society. Indeed, quite the opposite is assumed: the most advantaged have no incentive to improve the lives of the least advantaged in a caste society. Thus, although the least talented is aware of his own untalented self, he is still convinced that the contract of disadvantage is in his best interest.

Because the original position allows for inequality to accrue, this subcontract ensures that any benefit to the most advantaged will equally improve the lives of those least advantaged. All of this potentially makes us think differently about the relationship between the disabled and abled. How do we design a world that every advantage of the abled similarly enhances the lives

of the disabled? And to what degree do disabled lives need to improve? Rawls's description of the least advantaged as "lower range of ability" potentially invites this line of questioning. The class of "least advantaged," however, is gradually idealized over the course of the contract's many permutations and thus curtails any radical re-envisioning of abled/disabled relations. In "Distributive Justice: Some Addenda" published in 1968, Rawls contends that "the least advantaged are represented by the typical unskilled worker" (1999, 163). In 1971, by the publication of *A Theory of Justice*, Rawls has circumscribed the least advantaged to either the "unskilled worker" or those whose income is comparable to the least skilled (1971, 84). Rawls acknowledges that the least advantaged may be the result of "natural characteristics," such as sex, race, or culture, but he makes no mention of disability. Indeed, the language of defining the least advantaged according to the "less able" and "the lower ranges of ability" has been entirely removed.

In these iterations of Rawls's work surrounding disability, the double disavowal of disability is clear: again and again, we see Rawls define personhood and normal capacities in relation to disability, but then he removes disability from political consideration. The contract of disadvantage is potentially a tool for thinking about disability: to better understand the ways in which societal structures generate disadvantage. Instead, Rawls's treatment of the least advantaged understands advantage as an outcome of capacity—not societal injustice. Moreover, by circumscribing the range of cognitive capacities represented in the contract of disadvantage, Rawls constructs an artificial society in which differences in capacities are meaningful and yet minimized. Insofar as Rawls removes people with disabilities from cooperative relationships, we can assume that he conceptualizes the profoundly disabled as completely and permanently dependent on others. Because all human lives are subject to dependency—and thus move in and

out of cooperative relationships—disabled lives must be unique in their permanent failure to reciprocate. Because disabled lives threaten liberal freedoms, it is not only the possibility of disability that must be removed, but the actual bodies of the disabled.

3. The Principle of Redress and Disabled Evasions

Rawls's original position marks disability as naturally deficient and pitiful. The veil of ignorance, originally meant to ensure the possibility that parties could imagine themselves as anyone with any feature, is quickly secured against the realities of mental disability. Following Rawls's own logic—that ignorance of our own features secures justice—the ground below people with cognitive disabilities is already insecure: parties know that they are *not* cognitively disabled. Hence they will have less incentive to protect the needs of the disabled since they face no real risk of being disabled. While we know Rawls considers disabled lives pitiful and morally destabilizing, we still have a difficult time of knowing what moral agents—or Rawls—understands to be the bare facts of disability. Piecing together his discussion of redress provides potential insight into what in fact Rawls sees when the specter of disability surfaces. Emergent from this analysis is a vision of the cognitively defective as incurable, a threat to societal resources, and a just target for eugenics, not justice.

When Rawls's describes the principle of redress, remnants of his own assumptions about cognitive disability can be found. Redress, according to Rawls, is a necessary component of any theory of justice. According to Rawls, "since inequalities of birth and natural endowment are undeserved, these inequalities are to be somehow compensated for" ([1971] 2003, 86). Cognitive disability, regardless of severity, seems to meet the description for undeserved inequalities of

birth that Rawls's justice as fairness aims to compensate. "[In] order to treat all persons equally," Rawls argues,

society must give more attention to those with fewer native assets and to those born into the less favorable social positions. [...] In pursuit of this principle greater resources might be spent on the education of the less rather than the more intelligent, at least over a certain time of life, say the earlier years of school. ([1971] 2003, 86)

Detached from the rest of Rawls's corpus, redress suggests a radical way to envision the demands of full inclusion for the cognitively disabled. Rawls reiterates that it is not the lack of native intelligence that is just or unjust. "These are simply natural facts. What is just and unjust is the way that institutions *deal* with these facts" ([1971] 2003, 87, emphasis added). Differences in native assets are just facts—so long as they are within the normal range—outside the uncontrollable reactions of pity and anxiety that attend the *abnormal* difference of cognitive disability. Moreover, how institutions deal with these facts is here presumed an essential component of working out the basic structure of society. In some ways, Rawls seems to understand disability within the social model framework which brackets bodily or mental impairment and instead focuses on the ways in which institutions and systematic prejudice deal with disability.

But in justifying limits on redress and in reference to the compensation of natural inequalities of birth, Rawls cites two authors who similarly argue for equality but who make explicit references to mental disability as an obvious limit on redress, specifically in the passages which Rawls cites. After stating that inequalities of birth are undeserved, Rawls cites two articles: a 1944 article, "A Defense of Human Equality," by Herbert Spiegelberg and a 1950 article "Justice and Liberty" by D.D. Raphael. Raphael and Spiegelberg disagree regarding the treatment of the disabled: Raphael accords them unequal treatment to ensure their well-being,

whereas Spiegelberg worries that equalizing handicaps threatens to dull the talents of the most privileged. What they share with each other, and Rawls, is a strict dichotomy between the defective and the normal and an overriding assumption regarding the misery of disabled lives.

D.D. Raphael is concerned with the different and erroneous meanings of equality. Unequal treatment is not itself unjust when it follows an Aristotelian logic. On the page Rawls cites, Raphael makes clear that it is unjust when inequality misperceives or misrecognizes worth. Accordingly, “We should neither try to secure equality nor try to adjust treatment to nature. Both are impracticable. What we should do, and what successful reformers have in fact done, is to protest against and remove unjustified inequality” (1951, 187). However, on the same page, Raphael proceeds to argue that unequal treatment is justified for the handicapped. According to Raphael,

Unequal treatment may be justified, not only on account of the different ‘worths’ of the recipients, but also on account of their different needs. We think it right to make special provision for those affected by special needs, through natural disability, such as mental or physical weakness, [...] We attempt to remedy, so far as we can, the inequality of nature. [...] the inequality of treatment is an attempt to reduce the existing inequality, to bring the needy person up to the same level of advantages as the normal. (187-8)

Repeatedly, Raphael distinguishes between the “needy” and the “normal.” While “we” (the nondisabled) cannot make “them” (the disabled) equal, Raphael argues that we do have a duty to take care of them (189). Despite this duty to care, Raphael’s depiction of the disabled is essentially pitiful, as if their lives are never worthwhile. Accordingly, “Our recognition of ‘special’ needs is a recognition that some persons, by reasons of nature or accident, fall below the normal level of satisfactions, below the level which most people enjoy and which we regard as essential for decent living” (189). Here care is given as a kind of redress to insurmountable inequality and dissatisfaction. Like Rawls’s assumption that the disabled are defined by their

inability to cooperate, Raphael describes the permanently disabled as “incapable of making any return” (188).

Spiegelberg similarly constructs the disabled as pitiful and beyond justice. While he initially suggests that “redress implies [...] the cancellation of all inequalities of birth by equalization,” he eventually excludes the disabled from consideration. Redress has limits and, importantly, Rawls agrees: “we are to weigh [redress] against the principle to improve the average standard of life, or to advance the common good” ([1971] 2003, 86; [1968] 1999, 166). Both times that Rawls makes this statement—in 1968 and again in 1971—it is followed by a footnote to Spiegelberg.

In the pages cited, Spiegelberg is curtailing redress and disability plays a prominent role. Redress is risky if taken too far: “it should be considered that the destruction of native advantages may easily constitute a cruel injustice against the better equipped individual” (120). Redress does not mean equalizing talent. Rawls agrees, arguing that the difference principle “does not require society to try to even out handicaps as if all were expected to compete on a fair basis in the same race” ([1971] 1999, 86).

Spiegelberg uses the example of the “mentally handicapped” to examine in more depth this relationship of risky redress. For Spiegelberg, the mentally handicapped fits well into the category of the “underprivileged.” All that is required under Spiegelberg’s theory of equality is that the underprivileged receive a level of well-being that is suitable to their status. For the mentally handicapped, Spiegelberg contends:

It would by no means be a suitable compensation to give the mentally handicapped more means for physical pleasures if these would only endanger his well-being and would be used in a way injurious to the community. All that he can expect is, for instance, more facilities for his physical development, for healthful recreation and enjoyment, and similar compensations for the handicap of not being able to share the more exacting enjoyments accessible to the mentally

privileged. It would be definitely against the common interest to waste a useless amount of goods and education on the handicapped. It may well be that such limitations make it permanently impossible for us ever to achieve a full and satisfactory compensation. Regrettable though this may be, it does not constitute a good reason for taking to destructive equalization the overprivileged part. It is after all in the equal interest of all that his gifts not be wasted. (120-1)

Not only will the gifts of the over-privileged be wasted, but excessive intervention is similarly offensive to the disabled: “In the case of the mentally handicapped this would amount to inflicting upon him an extra dose of training, obviously with a very dubious chance of success and in all probability even against his definite desire” (119).

Spiegelberg gives us a picture of the mentally defective—a picture that Rawls would cite in his discussion of handicaps and redress—as incapable of learning, who much prefers physical pleasure (but which must be patrolled in case he threatens the community), and whose countenance beckons the collapse of the most talented as resources are uselessly drained into his static existence. Although Speigelberg derides the rumors of Nazi atrocities against the disabled, his own analysis is pervaded by eugenic phantasms.

Perhaps what is most disturbing is the way in which these eugenic phantasms similarly haunt Rawls’s account of the difference principle in *A Theory of Justice*. In concluding his section on redress, Rawls notes that “over time a society is to take steps at least to preserve the general level of natural abilities and to prevent the diffusion of serious defects” ([1971] 2003, 92). Consequently, “it is possible to adopt eugenic policies, more or less explicit” because it is “in the interest of each to have greater natural assets” (1971, 92). Rawls’s design of the basic structure—insofar as it awards and privileges talent—produces a world in which “natural assets” determine worth, status, and level of advantage. Of course, according to this basic structure, persons will desire eugenic policies. To my knowledge, Rawls never recants his endorsement of eugenics.

The problem with these constructions of disability—whether by Raphael, Spiegelberg, or Rawls—is that there is no room to question the ways in which we think about disability. Disability is here pitiful, miserable, and a threat to societal flourishing. It is a mistake—an abnormal failure of normal functioning. The anxiety that Rawlsian moral agents are threatened with in the original position is thus multi-faceted. It is not only an anxiety of whether or not they will be disabled. Indeed, Rawls has already assuaged moral agents of this fear as they know themselves not to be disabled. Yet he removes disability not only from a personal possibility, but from their very consciousness. It is this more diffuse anxiety that Spiegelberg suggests that threatens moral agents: the anxiety of existing in a world *with* the cognitively disabled. If provided with education, then they threaten to drain societal resources; if equality must be maintained, then they threaten to diminish others' talent as a perverse form of equalization; and if allowed physical pleasures in place of learning, then their unchecked pleasure threatens the safety of the community. Although Raphael thinks that the disabled deserve additional resources, it is only as a way to minimally offset their miserable condition. Disavowing disability—its possibility, existence, and future—is the radical epistemological function of Rawls's disabled contract. For Rawls, idealized capacities morph into normal functioning and *normal* is defined as nondisabled.

III. Epistemology of Disavowal

Methodological attentiveness to Rawls's disabled contract allows us to see the important ways in which it functions differently than in Locke's social contract theory. Substantively, Locke and Rawls both depict idiocy/disability as a private, static, and subhuman (Locke) and subperson/citizen (Rawls). But Rawls method of ideal theory simultaneously constructs a

fictitious abled norm. In contrast, Locke's epistemology—as developed in *Essay Concerning Human Understanding*—portrays a deep skepticism of human knowledge in general. Locke's contract, moreover, was different in kind; forged before Kant and Hume's critique, Locke's contract was intended to be descriptive, fictive, and not ideal. Unlike Locke, Rawls's disabled contract enforces a particular kind of epistemology: an epistemology of disavowal.

Throughout all stages of Rawls's work, a steady current pushes disability out of view: it is pushed out of citizenship, pushed out of the original position, and ultimately, pushed out of existence. Despite Rawls's constant disavowal, disability repeatedly resurfaces. Disability confronts Rawls in the construction of an ideal society, in the contract of disadvantage, and in the limits of redress. But every time disability appears, Rawls ensures its erasure. The disabled contract thus enforces an epistemology of disavowal in which the answer to disability is to disavow its existence: out of sight, out of mind.

Conversely, Charles Mills describes the racial contract as promoting an epistemology of ignorance amongst (most) whites in which white people are ignorant of their own complicity with racism. In many ways, the racial and disabled contracts promote similar epistemic faults: both require the “cultivation of patterns of affect and empathy that are only weakly, if at all, influenced by nonwhite [disabled] suffering” (1997, 95); “[e]vasion and self-deception thus become the epistemic norm” (97); both instill a “cult of forgetfulness” (97) as certain [nonwhite/disabled] “realities were made invisible” (92). Although Mills employs the language of ignorance, it is often abutted by descriptions of invisibility and “structured blindness”—and so these epistemologies are not entirely dissimilar.

But there are important reasons to avoid the language of ignorance, especially for a project on *cognitive* disability, most important of which is the way in which the familiar

Enlightenment category of ignorant/cognizant maps onto morally wrong/right. Mills often emphasizes the ways in which racism causes “cognitive dysfunctions” leaving whites “unable to understand” because they live in a “cognitive model that precludes self-transparency (1997, 18). If the problem is ignorance, then the answer is to become more cognizant, both for whites *and* nonwhites. If whites live in a “racial fairyland” (18), nonwhites’ must launch a cognitive voyage to overturn racism. Mills answer to racism requires a series of cognitive feats:

One has to learn to trust one’s own cognitive powers, to develop one’s own concepts, insights, modes of explanation, overarching theories, and to oppose the epistemic hegemony of conceptual frameworks designed in part to thwart and suppress the exploration of such matters; one has to think *against the grain*. (119)

Mills is not the first to propose cognitive self-consciousness raising as a first step to emancipatory politics, but judged from the lens of cognitive disability, this familiar route to empowerment is troublesome. In this epistemic model, the ignorant are always in the role of morally wrong and inferior while the cognitively superior are also morally superior. Better politics mutates into smarter people.

An epistemology of disavowal, however, can rely on other tools to dismantle oppression and it doesn’t require individuals to pursue an intellectual mystic journey before they can effectively politically advocate for themselves. Understanding a model of advocacy detached from cognition is more than this present chapter can handle, but it will be the subject of chapter five. For now, let me just say that—if ignorance presupposes cognizance as a political answer—then disavowal requires confrontation and affirmation of disabled lives.

Another reason to prefer the language of disavowal to that of ignorance is the different kinds of oppression at work behind ableism and racism. Normalization directly works to make one’s group invisible—it promotes an epistemology of disavowal, not ignorance. Disavowal does not, however, easily equate to disappearance. Young describes the paradoxical quality of

normalization: deviant groups are rendered invisible but simultaneously, by signifying the opposite of normal, their visibility heightens. This pattern is evident in the political thought of John Rawls. Unlike race, disability is not invisible in Rawls's work, but instead, the threat of disability circulates *all the time*. At the very same time, however, the way in which disability circulates promotes its own disavowal. Disability is present and yet forgotten, palpable and yet invisible, recurring but aberrant. Young attributes this simultaneous presence and disappearance to the "dominant groups' failure to recognize the perspective embodied in their cultural expressions as a perspective" (60). In contrast, the next chapter will show that disappearance is not merely an outcome related to recognition, but rather is a consequence of the actual location and removal of disabled people. If disavowal is the problem, then people with cognitive disabilities need a method and mode to affirm their existence.

IV. Conclusion: Implication of the Disabled Contract for Liberal Theory

If the contract's promise of political egalitarianism can be restored, it must disentangle its conception of personhood from requirements of rationality *and* its methodology of ideal theory. But this disentangling threatens to unravel the entire conceptual architecture of the contract. By confronting these dilemmas, this chapter enters into a longstanding debate between critics and defenders of social contract theory whose recent resurgence animates critical race and feminist scholarship. Charles Mills, for instance, encourages theorists to wrest social contract theory from social contract theorists in order to commandeer its egalitarian resources for social justice movements (2008, 105). By infusing the social contract with critical theory, Mills departs from Rawls's ideal method. Conversely, other theorists attack social contract theory as inherently flawed. Brooke Ackerly, for instance, contends that social contract theorists are always at risk of

encoding political phenomena as natural background assumptions and, as a consequence, fail to interrogate all forms of injustice (2008, 91). Carole Pateman similarly argues that social contract theorists' conception of property in the person permits individuals to freely enter contracts of subordination (2008). These critics point to both substantive *and* methodological problems in social contract theory.

Social contract theory, as ideal theory, doesn't have an internal tool that theorists can use to differentiate between the natural and the constructed world. This is clear in the approaches to cognitive disability. Here the contract device entrenches the prejudice that needs to be dislodged. Instead, theorists need a way to transform attitudes around disability. Rather than imagining what disabled lives might be like—a process that threatens to evoke fear and foreboding—we need a way to think about cognitive disability differently. Both Locke and Rawls deny the personhood of people with cognitive disabilities, casting their lives as marginal and peripheral to questions of justice. And yet, for as often as disability circulates in their theories, we never actually meet a person with a disability. Instead, they always appear as epistemological tools, their nameless and indistinct bodies patrolling the border between human and animal, political and private, normal and defective. Thinking differently about disability requires thinking about the actual lives of disabled people. Chapter four thus examines the historical treatment of people with disabilities while chapter five observes self-advocacy organizations dedicated to the political equality of people with cognitive disabilities.

Although problematic, Rawls's move to bracket disability may have been partially right. Rawls removes disability because he thinks agents will be overwhelmed by the pity and anxiety that threaten to overtake them in the original position. Rawls's anxiety maps accurately on to the difficulties that nondisabled people actually experience imagining disabled lives. Researchers

point out that, for nondisabled people, it is almost impossible to imagine a life that is both disabled and worthwhile (Scully2008). This failure of imagination functions as a truth. Bracketing disability may be preferable to theorizing about disability and disability related public policies from an anxiety-ridden standpoint, especially if encountering disability in the imagination is more like a nightmare.

However, problems of disability are not truly set aside, but rather interwoven throughout Rawls's assumptions. Moreover, other critics of Rawls actually reproduce the same ableist assumptions, even when they work outside social contract theory. For example, demarcating between human and nonhuman as a preliminary condition of justice—a primary task of the disabled contract—continues to occupy liberal political theory. In *Frontiers of Justice*, Martha Nussbaum explicitly sets out to correct liberalism for its exclusion of disabled lives. Nussbaum, however, continues to require a threshold level of cognitive capacity to ensure full human status. For Nussbaum, the condition of “a permanent *vegetative* state...is not a human life at all, in any meaningful way, because possibilities of *thought, perception*, attachment, and so on are irrevocably cut off” (2006, 181). Nussbaum is not alone. Indeed, analysis of Young and Mills demonstrated that while both theorists are critical of Rawls's conception of personhood, they both valorized cognitive functioning, either as a marker of productivity (Young) or a gateway to political mobilization (Mills). The repeated return to compulsory capabilities demonstrates the ways in which ableism is not “aberrant but rather the natural order of American life” (Asch 2001). While troubling, the disabled contract remains seductive.

The following two chapters aim to bring a more critical perspective to cognitive disability, in part by exposing disability and countering the epistemology of disavowal. Chapter four explores the historical construction of disability and chapter five observes a local meeting of

People First, a disability rights organization run by and for people with disabilities, in order to better understand the ways in which people with disabilities themselves construct a political movement for justice. Both chapters aim to rethink the meaning of personhood, in part to question whether social contract theory's promise of moral egalitarianism can be restored.

CHAPTER IV

THE DISABLED CONTRACT IN PRACTICE: RUPTURES AND REINFORCEMENTS

Although John Locke's social contract promises inclusion, it systematically excludes an entire class of marginalized figures presumed too incompetent to consent. Locke's social contract thus enacts the *disabled contract*—a device that denies political equality to the cognitively inferior. When Rawls revives social contract theory *and* the disabled contract in the twentieth century, he constructs the mentally defective as a threat—both to personal identity and the ideal society more broadly. In this chapter, I explore historical instantiations of the disabled contract forged between the eighteenth and twentieth century. By examining social practices surrounding disability, I argue that cognitive deficiency becomes the linchpin of exclusion for multiple stigmatized groups, not just the disabled. Women, nonwhites, immigrants, and the cognitively disabled share a common bond of marginalization based on deficient cognitive capacities. But rather than create political alliance between these groups, the disabled contract maintains emancipatory promise for nonwhites, women and immigrants who demand political membership on the *erroneous* accusation of cognitive incompetence. By disavowing disability, these marginalized figures join Locke's enterprise of exclusion.

Beginning at the turn of the nineteenth century, Locke's cast of marginalized figures—savages, criminals, madmen, children, idiots, women, and nonhuman animals—define each other by their shared exclusion. Locke's treatment of the idiot, however, occupies central importance in this shared exclusion. Because the bodily defect behind idiocy is permanent, total and (often) invisible, Locke's idiot figure provides social contract theory with a powerful mechanism of

legitimate exclusion. The medicalization of disability and the advent of racial science in the nineteenth century both legitimize exclusion through cognitive inferiority.

Consequently, the inescapability of the disabled contract intensifies. First, as the identity of cognitive disability is infused by racial, ethnic, class and sexual stereotypes the menace of disability increases. Conceptually linked with other stigmatized identities, social stereotypes increasingly depict the cognitively disabled as lazy, violent, criminal and sexually promiscuous. Second, as nonwhites, women and immigrants struggle for political inclusion, they emphasize their own rational capacities as a gateway to political inclusion. At times, they explicitly make political claims by distinguishing themselves from the mentally defective—liberalism’s legitimate outsiders. Consequently, women, nonwhites and immigrants become signatories to the disabled contract, thus intensifying the legitimacy of the exclusion of the cognitively disabled.

In chapter two, I exposed the terms of Locke’s disabled contract which disavows the *political*, *spiritual*, and *human* standing of idiots. In chapter three, I argued that Rawls similarly removes the cognitive disabled from political membership, but deepens the disabled contract by disavowing the *epistemological* role played by disability. In this chapter, I recount the historical instantiations of the disabled contract by examining how key figures constructed cognitive disability and how the construction of a cognitive borderland between human and animal unleashes a sequence of injustice. My analysis builds on the work of other critical contract theorists who link theoretical and historical exclusions to criticize mainstream social contract theory (Mills 2007b; Keating 2007; Pateman 2007).

The disabled contracts that I map in this chapter primarily occur between the eighteenth and the twentieth century in France, Britain, and the United States—societies in which the metaphor of the social contract was politically important. During this time, the meaning and

practices surrounding cognitive disability fluctuated, but the paradox of personhood persists. We can see it in the residual class of uneducable idiots that continue to constitute a backdrop of permanent and uncontested exclusion. Although historical practices vary, they share an aim to remove, neglect and deny the existence of profound disability. During the nineteenth century, medical authorities promised that educational and moral reform could remove idiocy from the individual body. Rehabilitated idiots could then rejoin their communities and gain membership in the social contract. Once these promises proved more fiction than fact, policy makers during the eugenic era turned their attention to eradicating idiocy from the body politic. In addition, educational interventions and eugenic policies were aimed at a broad cast of marginalized figures, including the cognitively and physically disabled, nonwhites, immigrants, and women. The disability rights movement—which built on the women’s and civil rights movements—aimed primarily to overturn the erroneous assumption of cognitive incompetence. By privileging cognitive competence, rights movements merely enact a different kind of denial of severe disability. Whether the aims are eugenic or emancipatory, these movements are marked by the continued representation of an ideal cognitive subject.

In the first three sections of this chapter, I focus on three men—Jean-Marc-Gaspard Itard, John Langdon Down, and Henry Herbert Goddard—because of the pivotal role they played in defining disability and each provides a glimpse into broader cultural trends of their time. In the first section I describe the work of Jean-Marc-Gaspard Itard, whose experiment with a wild child at the end of the eighteenth century fused narratives of social contract theory, colonialism, race and idiocy. Section two analyzes the ethnic classification of idiocy by John Langdon Down, whose categorization of Mongolian imbecility built on scientific studies of race. Section three explores eugenics through the figure of Henry Goddard, an American psychologist responsible

for introducing the IQ test to the United States and creating an expansive categorization of mental defectiveness. Throughout these periods, we see the forms of injustices that the disabled contract produces and how these injustices are experienced by a broad class of people, not just the cognitively disabled. In the fourth part of this chapter, I describe the ways in which disability rights activists and critical and feminist theorists have aimed to improve the lives of the marginalized and disrupt liberal exclusions, but have failed to undermine the disabled contract.

I. Torturous Interventions: Race & Disability in the Wild Boy of Aveyron

At the end of the eighteenth century, John Locke's *An Essay Concerning Human Understanding* played an important role in educational experiments with idiot and wild children. Throughout the eighteenth century, wild (feral) children captured the imagination of European audiences (Benzaquén 2006; Douthwaite 2002). Their intrigue was fueled by speculation, repeatedly sparking questions regarding the existence of human nature and the human and animal divide (Newton 2002, xviii). Locke's sensationalist epistemology did much to foment this interest, in part because it offered the endless perfectibility of mankind in the expectation that experience and sensation were the twin agents behind all human knowledge. Although Locke rejected entirely the educability of idiots, his theory of the mind nevertheless helped initiate Jean-Marc-Gaspard Itard's educational experiment with the wild boy of Aveyron. Undertaken during the rise of colonialism, Itard's experiment fused constructions of race, colonialism and idiocy. While educability promised to expand the political membership of the social contract, failure to attain a threshold level of rationality threatened expulsion from the human community. Here, at the intersection of Itard and the wild boy of Aveyron, Locke's theoretical musings over the limits of personhood take on torturous consequence.

In the French town of Aveyron in 1798, a group of hunters captured a mute eleven year old boy wandering naked and wild throughout the woods. Displayed in Paris to incite curiosity and revulsion, the boy quickly gained the attention of the French physician Jean-Marc-Gaspard Itard (1774-1838). Itard credited Locke with discovering the “most important truths” (1802, 142) that knowledge is gained entirely through experience, but he criticized social contract theorists for modeling the state of nature based on barbarian society, which itself was already inflected with its own cultural traditions. “We ought,” considered Itard, “to seek elsewhere the model of a man truly savage” (1802, 6). The wild boy, named Victor by Itard, gave the young medical doctor an opportunity to test Locke’s theory of knowledge

Victor’s questionable status—as idiot or savage—maps neatly onto Locke’s depiction of idiots and savages as described in chapter two. Idiots and savages play an important role because Locke uses them to explicate the components of human reason, disprove the existence of innate ideas and represent a prior stage of human society. For Locke, the idiot’s defective mind is caused by permanent bodily difference, thus more akin to nonhuman brutes than mankind, while the savage is bereft due to amoral acculturation. Significantly, Itard believed the wild boy to be a true savage, savage to even the savage tribe, because his deficiency was due to the complete absence of education and acculturation.

In Itard’s publication describing his education of the wild boy, he describes Victor not as “a hopeless idiot, but a being highly interesting” (11). Phillippe Pinel (1745-1826), Itard’s teacher, disagreed. Pinel argued that Victor “retains no idea whatsoever of things that are unconnected with his subsistence or his means of escape, and that, incapable of attention, he has only fleeting ideas which disappear as soon as they are produced” (quoted in McDonagh 1998, 60). Situated in

the midst of this controversy, descriptions of Victor are infused by multiple figurative tropes: the hopeless idiot, the barbarian savage, and the instinctive animal.

Throughout Itard's account, Victor is both compared and contrasted to nonhuman animals. Pinel's evaluation of the savage boy revealed him to be "very inferior to some of our domestic animals" (20). Devoid of memory, judgment, communication and affection, Pinel thought "his whole existence was a life purely animal" (21-2). While Itard is convinced of the boy's educability, he also worries that Victor's accomplishments will be perceived as "only the common instinctive actions of an animal" or the "most common dog" (106, 69). Itard tries to placate these accusations by arguing that—even if his efforts have only produced the "mental equality between the boy and the brute"—it can still be considered a success. Itard points out that when Victor was first displayed in Paris, "he was vastly inferior, [...] to the more intelligent of our domestic animals" (69). Acquiring the same capacities as a dog is, for Victor, a great accomplishment.

Despite Itard's attempt to construe any result as a success (most likely for his own professional legitimacy), Victor could not be a success if he remained on par with dogs. Stimulating Victor's intellectual faculties was in fact paramount to his human standing. Without intelligence, Itard considered mankind inferior to many animals: "deprived of the characteristic faculties of his species, [he] drags on miserably, equally without intelligence and without affections, a life that is every moment subject to danger, and confined to the bare functions of animal nature" (143). Accordingly, contestation of Victor's status did not only center on the distinction between savage and idiot, but human or subhuman.

Located somewhere between savage and animal, Itard described Victor's behavior as comprising both savage and animal elements. Unlike his civilized counterparts, Victor was

immune to sensations of extreme heat and cold; he could plunge his hand in fire or boiling water (45), or roll half-naked in the snow (39). His bodily movement was also interpreted as wild, often overtaken by “convulsive motions” (40), leaping into the air, or squatting naked on the ground. The boy urinated on himself (50), gnawed on his clothes and furniture (124), and ate “disgustingly,” “out of his hands besmeared with filth” (57). Itard’s descriptions of the boy promote an identity that is both animal and savage.

Although Itard thought the boy entirely a product of wild isolation, Victor nevertheless shared some features with barbarian society. “Like some savages in the warmer climates,” Victor was “acquainted with four circumstances only; to sleep, to eat, to do nothing, and to run about in the fields” (37). Victor’s behavior was not only infused with colonial stereotypes, but similarly informed Western constructions of race. Equipped to “do nothing” would continue to define both nonwhites and idiots during the nineteenth century. For Victor, association with savage habits led to a unique kind of therapy. Convinced “that the inhabitants of the southern climates are indebted to the action of heat,” Itard “thought it likewise necessary to put [Victor] in the hot bath for two or three hours every day, during which, water at the same temperature was frequently dashed on his head” (48).

Long hot baths were described as pleasurable for Victor—who accordingly would not even get into a lukewarm tub—but not all of Itard’s strategies were equally benevolent. Itard’s interpretation of the boy as both savage and animal allowed him to repeatedly inflict pain on the boy through experimentation. Especially because failure to learn meant expulsion from the human community, stimulating Victor’s mind—under any condition and by any means—was deemed necessary and just. Itard describes stuffing Victor’s nose painfully with snuff (45), firing pistols near his ear (46), exposing him naked to the cold (50), repeatedly giving him electric

shocks as the boy scrambled to get away (53), and at one point, suspending the boy face-first out a fourth story window until the boy trembled in sweat and tears (128). Itard's ability to repeatedly hurt Victor coexisted smoothly with Itard's seeming devotion to the boy. Itard lovingly describes how each night Victor would open his arms for Itard's embrace, and then lie in bed as Itard tenderly stroked his face. In fact, it was this scene of affection—not the many stories of abuse—that Itard feared would prejudice his readers who might perceive Itard's devotion as a loss of scientific credibility.

While stimulating Victor's sensations was crucial to Itard's method, it was halted when it caused sexual arousal. Itard disallowed tickling as a form of stimulation “when its effects were no longer confined to the production of pleasurable emotions; but appeared to extend themselves to the organs of generation, and to indicate some danger of awakening the sensations of premature puberty” (50-1). This passage is a rare glimpse into Victor as a sexual and gendered subject. Most accounts of wild children are male, but there were a few notable cases of wild girls captured as well. The fact that Victor could be sexually stimulated differed from other accounts of wild children who seemed oblivious to the “other sex”—a trait that for some proved their idiocy (Blumenbach 1865).

Despite Itard's promises and repeated experimentation, the stimulus proved inadequate in Aveyron. Victor never learned language and, after six years, Itard abandoned his experiment and dedicated his career to educating deaf pupils. Overwhelmed by disappointment, Itard proclaimed:

Unfortunate! Since my pains are lost and my efforts fruitless, take yourself back to your forests and primitive tastes; or if your new wants make you dependent on society, suffer the penalty of being useless, and go to Bicêtre, there to die in wretchedness. (Quoted in Seguin 1907[2004], 15)

Itard's statement conjures both the wild savage with "primitive" tastes and the insane and idiotic inmates of Bicêtre. Michael Newton characterizes their relationship as a case of unrequited and impossible love. "It is not hard to feel as sorry for Itard as one feels for the wild child. For Victor's story catches hold of a vivid and tactful tenderness: its subject is ultimately that of yearning for and missing love" (127). Newton argues that this love was contaminated by the hardened and inescapable power differential between Itard and Victor, but it may have been equally doomed by a cultural logic that dehumanized subjects who could not be rational; that for all Itard's assertions that Victor could have the same improvement as a dog and still be considered a success, it was simply and irretrievably insufficient. The inability to acquire language—as evidence of reason and human status—would seal Victor's abandonment. David Mitchell and Sharon Snyder interpret Itard's story "as "little more than a Western empiricist's fantasy" (2005), but it equally can be read as the inevitable enforcement of the disabled contract: that human subjects incapable of cognitive competence are not human subjects after all.

Although Itard considered Victor a failure, his student, Édouard Séguin (1812-1880) believed Itard had experienced some success. Because Séguin considered Victor an idiot, the boy's minimal gains suggested that idiots were not entirely immune to instruction. Séguin immigrated to the United States where he helped promote both a new taxonomy of idiocy and the growth of residential schools for the feeble-minded in the mid-nineteenth century (and where he eventually Anglicized his name to Edward Seguin). The next section focuses on this time period as idiocy is redefined as both capable of education and deserving of public expense. Amid these promises of education, however, a residual category of uneducable idiots continues to stalk the parameters of human membership, instantiating the disabled contract.

To summarize this section, Itard's experiment with Victor—and similar examples of wild children—intimately connected the constructions of idiocy, race, and colonialism. Victor's behavior was understood by situating him within a class of savages, nonhuman animals and irredeemable idiots. Victor's association and status as a marginalized figure helped initiate and legitimate a series of educational experiments both painful and frightening. In the ensuing period, medical practitioners continued to debate the status of both nonwhites and idiots. While education promised a route of inclusion into the social contract, it also legitimated dehumanizing practices of control and categorization.

II. Unjust Orderings: Idiocy: Race, Gender and Primates

When Itard's student Seguin immigrated to the United States in 1850, he joined medical practitioners similarly convinced of the educability of idiots, including Samuel Gridley Howe, Hervey B. Wilbur and William B. Fish. Advocating for the construction of state institutions to educate idiots, they argued that rehabilitated idiots could rejoin their communities as both productive and responsible. By 1879, eleven institutions were functioning across the U.S. with roughly “fifteen hundred inmates” (Fish [1879] 2004, 29). Prior to this, idiots in the United States were primarily cared for in their homes, confined to almshouses or housed with the insane (Ferguson 1984). Justifications for institutionalization were fueled by new taxonomies of feeble-mindedness that distinguished between incurable and educable idiots. This section focuses primarily on the work of the British medical doctor John Langdon Down (1828-1896), responsible for the categorization of Mongolian imbecility—now known as Down syndrome. By drawing on theories of racial degeneration to better understand feeble-mindedness, Down's work illustrates the broader cultural trend on categorizing idiocy by relying on raced, gendered, and

nonhuman identities. Down's work contrasted with American phrenologists who used idiocy to deny that the different races shared the same human species; this section thus moves between British and American constructions of imbecility. While the previous section explored the ways in which an indeterminate human status legitimized torturous interventions, this section examines the ways in which the ranking of normative categories of being human is itself an injustice.

Between 1858-1868, Down served as the superintendent of Earlswood Asylum for Idiots, the first institution for idiot children in Britain (Wright 2001). Down advocated for more benign approaches to idiot children and also promoted the new terminology of feeble-mindedness. No mother, according to Down, could call her child an idiot. Down's promotion of a new classification system for feeble-mindedness was not entirely benevolent, but instead tapped into the growing professionalization of the field. Medical practitioners and institutional superintendents depended on the educability of idiots to defend their work and garner financial support.

During Down's tenure at Earlswood, he wrote and published his article "Observations on an Ethnic Classification of Idiots" in which he described Caucasian, Ethiopian, Malay, and American Indian varieties of feeble-mindedness. He focused primarily, however, on the "numerous representatives" of the "great Mongolian family" (1866, 260). Down described them accordingly:

The hair is not black, as in the real Mongol, but of a brownish colour, straight and scanty. The face is flat and broad, and destitute of prominence. [...] The tongue is long, thick, and is much roughened. The nose is small. The skin has a slight dirty yellowish tinge, and is deficient in elasticity, giving the appearance of being too large for the body. (1866, 260)

For Down, classifying idiots by ethnicity was valuable, especially for medical professionals, because it alleviated nurses and doctors who were far too often erroneously charged with causing idiocy. Classifying feeble-mindedness by ethnicity, Down argued, also provided medical practitioners with specific guidance for educational intervention. For instance, Down believed Mongolian idiots were susceptible to heat like their Mongol ethnic counterparts. By linking imbecility with ethnicity, Down carried over Itard's construction of idiocy. But unlike Itard—who used heat to stimulate Victor—Down believed the heat caused Mongolian imbeciles to regress. Echoing Itard's description of savage culture, Down argued that Mongolian imbeciles became more indolent during the spring and summer (1866, 262; 1876, p.).

More broadly, Down used his ethnic classification of idiots to defend monogenism—the belief that all races were the same human species—as opposed to polygenism. Down's work was indebted to the science of ethnology and the racial classification of J.F. Blumenbach who divided the world's inhabitants into five races (Ward, 1999; Gould 1993). Blumenbach distinguished humans from animals on the fact that humans lack natural instincts and instead rely on reason, which animals lack entirely (1865, 82). While most ethnologists agreed that Caucasians represented the pinnacle of racial advancement, they disagreed as to whether each race was a distinct species. For Down, his ethnic classification of idiocy proved that mankind was a unitary species: the birth of a Mongoloid child by Caucasian parents signified racial regression, proving that Caucasian ancestry was infused by Mongol blood. Race thus became a marker of feeble-mindedness and feeble-mindedness increasingly is understood through race.

Down's classification of Mongolian imbecility relied on the nineteenth century science of phrenology; measuring and photographing idiot skulls was a primary tool of categorization for Down. Phrenology drew on racial, gendered, disabled, and animal identities in order to argue that

white upper-class men were mentally and physiologically superior to raced, disabled, gendered and primate counterparts (Hamilton 2008; Stepan 1986). Down's argument contrasted with phrenologists Samuel G. Morton, Josiah C. Nott, and Louis Aggissiz, all of whom endorsed polygenism. All active in the United States (where polygenism was used to defend slavery), each of these men contributed to the highly successful publication *Types of Mankind* (Baker 2008, 95).

Phrenology was always a contested science and most critics of phrenology—both then and now—focused on the systematic distortion of data that stigmatized blacks and women (Gould; Hamilton). But idiocy played an important if often overlooked role. Although idiot skulls are featured less often than either Africans or apes, they serve a similar purpose. According to Nott, “I believe that all scientific men concede that brains below a certain size are always indicative of idiocy, and that men of distinguished mental faculties have large heads” (1854, 463). The smaller skulls of idiots were invoked to help explain the inferior intelligence of women (Tiedemann 1836, 502) and blacks (Nott 1854, 431; Morton 1854, li-iii; Schaaffhausen 1868). For example, in *Types of Mankind*, an illustration of an idiot skull shares the page with a picture of the Hottentot Venus, both representing abnormal human structures.

John Marshall's 1862 article, “On the Brain of a Bushwoman; and on the Brains of Two Idiots of European Descent,” exemplifies the ways phrenology relied on racist, sexist and ableist logics. Marshall's dissections reveal that all three brains are deficient in relation to the typical European. Although the Bushwoman was “not an idiot, or a defectively developed individual [...] compared with the European, [it did] have an infantile simplicity, characteristic partly of sex, but chiefly of race” (709). Despite these deficiencies, the Bushwoman's brain was at least more similar to the European brain than compared to the brain of a chimpanzee. In contrast, the

idiots' brains were more deficient: "The convolutions in the idiots' brains are more simple than those of the higher Apes, and approach, in this respect, those of still lower Quadrumana" (712). Like the wild boy of Aveyron, idiots continued to invoke both racial and animal ancestry.

Like nonwhites and women, idiots represented earlier stages of human development. Michel Foucault argues that medical practitioners depicted idiots as a case of arrested development, signifying a kind of permanent childhood (1973-4 [2006], 209). Similarly, Etienne Serres argued that blacks represented white children while Mongolians were like white adolescents (Gould). Louis Aggissiz and Samuel Gridley Howe—the latter of whom was active in the abolitionist movement and the promotion of residential schools for idiots—likened blacks with children (Gould 1993; Furrow 2010).

Ladelle McWhorter argues that as nineteenth century professionals continued to invoke the image of idiocy to explain the degeneration of the races, idiocy itself became infused by racial stereotypes, primary of which included traits of criminality and violence (2009, 131-3). In a similar process, the equation of nonwhites and idiots to children necessitated shifts in the construction of childhood in which children's identities—formerly understood as innocent—now became infused by violence and savagery (135-6). Under this new fusion of identities, children, criminals, idiots, and nonwhites all became representative of a primitive and savage past (136). And yet, this fusion seemed latent in Enlightenment culture, as John Locke's *Essay* knitted these same groups together as early as 1690.

Fusing constructions of race, idiocy and childhood not only affected the construction of marginalized identities, but was also used by Down to bolster the legitimacy of his growing profession. According to Down, only civilized nations concerned themselves with improving the conditions of idiots.

Probably nothing indicates more fully the onward progress of civilization than the thought that is now being given to the waifs and strays of humanity which are comprised in the subject of this paper. In a barbaric age the extermination of those who could not help the State, or tribe, was considered the wisest political economy. (1876)

Savages not only helped explain idiocy, but nonwestern society was now depicted as too uncivilized to treat idiocy. Rather than promote egalitarianism, the educability of idiots reinforced relations of domination and subordination, both between medical professionals and the disabled, as well as between the West and non-west.

In particular, the specialized needs of idiots necessitated the creation of an expert class, able to diagnose and treat their defectiveness. Here the possibility of redemption proscribes control as the more able/civilized are charged with educating the less able/barbarian. Harry Bracken faults Locke's concept of the mind as a blank slate as emboldening social control. According to Bracken, "because the model carries with it the need for a group which will be charged with 'writing' on the blank tablets [it] has helped justify the creation and growth of an elite class of experts who handle human programming" (1984, 57-8). In the United States, for example, the construction of residential schools for the feebleminded coincided with educational experiments with Native American children (Simpson 2007; Lomawaima 1993; Trennert 1982). Educators used similar techniques for disabled and raced students: they emphasized cleanliness, physical fitness, and the acquisition of semi-skilled trades for boys and domestic skill for girls. Beginning in the 1870s, residential schools began to be established for Indian children, aimed to eradicate their Indian culture while acculturating them into appropriate (white) gender roles. Promoters of education—whether for Indian or idiot children—emphasized that these groups could perform the kinds of domestic and manual labor unsuitable to the more able and white populace. The incapacity of idiots/savages heightens the respectability and esteem of the

explorer/physician, even as hopes in civilizing savage races and idiots ultimately diminished by the end of the nineteenth century.

Returning to Down's ethnic classification of feeble-mindedness, it encountered problems when later researchers discovered that mongoloid children existed in African culture (Wright 2004; Kevles 2004). Because Africans were supposedly racially inferior to mongoloid races, this contradicted the evolution of the species. Mongoloid children for Africans would ostensibly be a sign of racial progress. Reginald Down, John Langdon's son, attempted to solve this problem by attributing the regression of mongolism to an earlier *non-human* origin of the human species. John Langdon Down had himself considered the close association between idiots and apes in correspondence with Charles Darwin. Both Langdon Down and Darwin saw apish characteristics in idiots, including the shape of their ears, brains, and excessive hairiness (Darwin, quoted in Borthwick 2000, 35).

Comparisons between the feeble-minded and nonhuman animals recurred often in the nineteenth century. Samuel Gridley Howe, prominent in the institutionalization movement in the United States, argued that "The spectacle of human beings reduced to a state of brutishness, and given up to the indulgences of animal appetites and passions, is not only painful, but demoralizing in the last degree" ([1856] 2004, 24). W.G. Crookshank took up Reginald Down's theory and extended it, arguing that the three races of mankind—white, yellow and black—mapped on to three distinct varieties of ape—chimpanzees, orangutan, and gorilla. Echoing Locke's depiction of the history of human knowledge that ascended from brutes, Dr. A.C. Haddon declared that Crookshank's analysis provided "a record of the painful but glorious ascent from the brute to the human" (quoted in Brown 1931, 253).

The American freak show of the nineteenth century capitalized on these scientific debates and fused the identity of race, primates, and idiots together in the figure of William Henry Johnson, whom P.T. Barnum named Zip the Pinhead. Johnson was in fact a black man with microcephaly, a neurodevelopmental condition which decreases the size of a person's head. Like the wild boy of Aveyron, Johnson was used to incite questions regarding the limits of the human species. According to Rosemarie Garland Thomson, "Barnum's advertising poster challenged onlookers to make the distinction: 'Is it a lower order of MAN? Or is it a higher order of MONKEY? None can tell! Perhaps it is a combination of both'" (Thomson 1997, 69). Barnum described Johnson as a mixture of both animal and man, "the connecting link between humanity and brute creation" (69). While Thomson is right to associate Barnum's poster with Darwinian science, the comparison is much older, as Locke offered a much earlier story of human degeneration. Indeed, instantiations of the disabled contract are fraught with an anxiety over the indeterminacy of the human species.

Women are implicated in this degeneration as they are held responsible for both the contamination of the Anglo-Saxon race and the cause of idiocy. John Langdon Down, like other medical practitioners of his time, argued that women were particularly responsible for the birth of idiot children. Itard's student Seguin similarly indicted women for all kinds of misdeeds:

She, being pregnant, has used for exclusive food unnutritious substances, such as pickles, dainties, lemons, tea, brandies, etc.; or vomited all real food soon after ingestion. She has conceived at a time when spermatozoa have encountered noxious fluids of venereal or menstrual origin, or have been altered in their vitality previous to their emission by drunkenness, etc. She is often passive under the causes of impressions, depressions, shocks, privations, exertions, abuses, excesses, altering the nutrition of the unborn or newborn child. (1866)

While both Seguin and Down blamed poor heredity stock for idiocy, they were able to rationalize the birth of idiots amongst the well-bred by attributing feeble-mindedness to a great

shock women experienced during pregnancy. Being a progressive, Down was unique in not attributing idiocy to the over-education of women. Instead, he argued the opposite, that less educated women were more prone to be driven by emotions and thus more at risk of birthing idiot children. But even if this belief was more progressive than his counterparts, Down took part in the broader cultural enterprise of patrolling women's behavior by emphasizing their influential role as mothers.

When carried to its ultimate logic, the disabled contract denies the human status of nonwhites and the cognitively disabled. Down's ethnic classification of idiots discloses the interweaving identities of race, disability, and gender. While educability represented a kind of escape clause for individuals erroneously presumed disabled, it also legitimized the continued subordination of people who could not sufficiently acquire understanding. Educators and superintendents of institutions, moreover, had never promised that all idiots could be cured. Indeed, most agreed that a residual group of idiots would remain entirely incapable of education or improvement (Ferguson 1994). As the promise of educability waned, the more able sought new ways to remove, neglect, and deny the existence of people with cognitive disabilities. They found such an answer in the rising eugenic science of the late nineteenth and early twentieth centuries.

III. Eugenics: The Disabled Contract's Deadly Culmination

As institutions for the feebleminded swelled in size—as a product of increasing immigrant labor, economic hardship, and an expansive definition of mental defectiveness—the promise of education faltered and, eventually, faded (Trent 1994). In its place arose a new objective: containment. Fueled by Darwin's theory of evolution and Sir Francis Galton's notion

of heredity, the eugenic era ushered in devastating policies of sterilization and extermination perpetrated against an entire class of marginalized figures. In this way, eugenics can be seen as the deadly culmination of Locke's disabled contract in which his various cast of marginalized characters—idiots, savages, criminals, madmen, women, and the poor—fused into a unified category of mental defectiveness. This section examines this culmination through the life and work of Henry H. Goddard, an American psychologist and proponent of eugenics in the United States. Goddard built on nineteenth century classifications of idiocy with race and gender to legitimize new forms of injustice, such as permanent institutionalization and sterilization. Like Rawls's construction of disability as threat analyzed in the prior chapter, Goddard painted a new face of the mentally defective as a threat to American progress.

In 1912, Henry Herbert Goddard (1866-1957) published the best-seller *The Kallikak Family: A Study in the Heredity of Feeble-mindedness*. Since 1906, Goddard had been Director of Research at the Training School for Feeble-minded Girls and Boys in New Jersey. Family studies were popular in the late nineteenth and early twentieth centuries, the first of which was Richard Dugdale's *The Jukes: A Study in Crime, Pauperism, Disease and Heredity* in 1877. These histories were used to demonstrate the effects of heredity and were often factually suspect (Trent, 72). Goddard's *The Kallikak Family*, for the first time, supposedly proved the transmissible trait of feeble-mindedness by tracing two lineages. Taking the surname by combining the Greek words *kallos* (good) and *kakos* (bad), Goddard traced the lineage of Deborah Kallikak, an eight year-old girl admitted to an institution for the feeble minded in 1910 (Trent, 163). Family studies had previously only traced the ancestry of degeneracy, but Goddard used Deborah's great-great-great grandfather Martin Kallikak to trace two separate lineages. Deborah was the descendent of the first (*kakos*) lineage, which Goddard traced to her great-

great-great grandfather's one-night drunken rendezvous with an idiot woman. Martin Kallikak eventually married a respectable Quaker woman; their union together produced generations of good citizens, thus the *kallos* line of heredity. In contrast, the *kakos* lineage had produced "143 feebleminded protégés, along with dozens of epileptics, alcoholics, prostitutes and common criminals" (Trent, 164). According to Goddard, "There are Kallikak families all about us. They are multiplying at twice the rate of the general population, and not until we recognize this fact, and work on this basis, will we begin to solve [our] social problem" (1912, 70-71). In order to remedy the problem of feeblemindedness, Goddard required three things: first, a new classification system of feeblemindedness; second, a method of measuring feeblemindedness; and third, a policy of remediation. Goddard provided all three, all of which drew upon a collection of marginalized (and, by now, familiar) characters.

Goddard introduced a new typology of feeblemindedness: idiot, imbecile, and moron. Idiots were the lowest grade, with "no higher intelligence than that of two-year-old children"; imbeciles had the equivalence in intelligence between three and seven year-olds; and morons represented eight to twelve year-old arrested development (1927, 41-2). Goddard was most concerned with the moron class because they were more likely to commit crimes, they could influence lower-grade imbeciles into crime, and moreover, morons were the most difficult to discern as they easily blended with the nondisabled populace. Under Goddard's new classification, feeblemindedness, criminality and ethnicity fused into the same heredity trait.

Because morons were difficult to detect, Goddard required a new scientific measurement for feeblemindedness. In 1908, he introduced the Binet intelligence tests to the United States. Goddard's tests found exploding rates of feeble-mindedness in the U.S. population. Testing new arrivals to Ellis Island, Goddard found rates of feeblemindedness of 40 to 50 percent of incoming

immigrants (Trent, 168; McWhorter, 138). The United States had already passed the Undesirables Act in 1882 to deny the entry of idiots, but fueled by Goddard's results, the Johnson-Lodge Immigration Act was passed in 1924 to drastically limit the numbers of nonwhite immigrants. In 1917, Goddard tested the intelligence of World War I army recruits; 40 percent of white recruits were diagnosed feeble-minded, while almost 90 percent of African American men were identified as mentally deficient (McWhorter, 138; Trent, 179).

By distributing explosive new rates of defectiveness, Goddard spread a heightened sense of alarm around the scourge of feeble-mindedness that linked cognitive inferiority to ethnicity, race, and poverty. Anna Stubblefield argues that eugenics offered economically privileged whites a way to differentiate themselves not only from nonwhites, but also poor whites.

Feeble-mindedness was based upon a racialized conception of intelligence, according to which white people supposedly had normal and above normal cognitive ability, while members of other races supposedly had subnormal cognitive ability. [...] By the early twentieth century, however, the racialized understanding of cognitive ability was used to signify not only the difference between white and nonwhite people but also the difference between pure and tainted whites. (2007, 163)

Stubblefield's distinction between nonwhite and off-white may, alternatively, point to the ways in which cognitive disability is imbricated in the evolving construction of whiteness. In an analysis of late nineteenth century suffrage literature, Nicola Beisel and Tamara Kay argue that whiteness was radically reconstructed after the Johnson-Lodge Immigration Act. Focusing primarily on depictions of Irish immigrants, they argue that the Irish were not off-white as Stubblefield would suggest, but an entirely separate race (2004). Debates over tainted whiteness disclose how eugenicists not only integrated racist logic into feeble-mindedness, but reconstructed the very meaning and parameters of race.

Curbing immigration was only one tactic that Goddard pursued to decrease societal problems, but it couldn't eradicate the mentally defective population already present and reproducing in the United States. Institutionalization in the nineteenth century had been premised on the ability to rehabilitate idiots and return them to their communities, but during the rise of eugenics, the institution was reframed as primarily custodial. Careful to appease politicians and taxpayers, Goddard assured audiences that permanent incarceration would not inflate taxes. Accordingly,

If such colonies were provided in sufficient number to take care of all the distinctly feeble-minded cases in the community, they would very largely take the place of our present almshouses and prisons, and they would greatly decrease the number in our insane hospitals. Such colonies would save an annual loss in property and life, due to the action of these irresponsible people, sufficient to nearly, or quite, offset the expense of the new plant. (1912, 105-6)

Goddard's typology of feeble-mindedness was crucial for the new custodial institution. Female high-grade morons would care for lower-grade imbeciles and idiots, while male morons could tend the farm (Carlson 2001, 129). Goddard also argued that some of the feeble-minded could be sufficiently trained to rejoin their communities (Carlson 129). Morons, according to Goddard, "are happy in doing their kind of work that you and I do not want to do [...]. In other words, we need these people. They are an essential element in the community (1927, 44-45). Whether defending permanent institutions or declaring well-trained morons for menial labor, Goddard's declaration that "we" needed them was equally demanding his own professional legitimation: a moron class required similarly required well-trained professionals.

Institutions increasingly became sex-segregated to avoid procreation. As early as 1878, the New York Asylum for Feeble-Minded Women of Child Bearing Age was opened, the first entirely custodial institution. Controlling feeble-minded women's sexuality surged during eugenics. Patrick McDonagh argues that "representations of women with intellectual disabilities

consistently emphasize physical or sexual appetites,” but this logic was also tinged with racial identities as well (84). The moral degeneracy of women is aptly captured in Josephine Shaw Lowell’s 1879 address to the National Conference of Charities and Correction: “the most dangerous causes of the increase of crime, pauperism, and insanity, is the unrestrained liberty allowed to vagrant and degraded women” (quoted in Trent, 74). Lowell believed most of these women to be feeble-minded and, consequently, easy prey for the lust of men and their own lack of self-control (74).

Prohibiting marriage between idiots was one strategy states used to reduce the overpopulation of moral degenerates. By 1920, almost half of all states “prohibited marriage between ‘imbeciles, epileptics, paupers, drunkards, criminals, and the feeble-minded’” (Sanger 2001, 212; Sparkes 1999). Allison Carey attributes these laws to the inability of idiots to consent, logic that she finds expressed in the U.S Supreme Court case *Dexter v. Hill* (1872). There Justice William argued that consent requires the “assent of two minds. But a lunatic, or a person non compos mentis, has nothing which the law recognizes as a mind” (2009, 39). William’s decision was most likely tinged not only by the inability to consent, but also by the kinds of offspring that these marriages might beget. By relying on the political requirement of consent, Williams could distort competing explanations behind exclusion, including racist, xenophobic and classed interests.

Illegalization of marriage was insufficient, however, as Goddard and other prominent figures continued to stress the overwhelming growth of defective classes. Instead, it necessitated a new approach: sterilization. Castration had initially been used in institutions to curb the sexual behavior of low grade idiots, both men and women (Trent, 193-5). Vasectomies had in fact been linked to moral degeneracy since inception: when first reported by the *Journal of the American*

Medical Association, vasectomies were considered a useful tool for “chronic inebriates, imbeciles, perverts and paupers,” along with “racial degeneracy” (Pollack 2007, 97). Sterilization was in fact more often used on men deemed mentally ill. In 1899, eight years before the legalization of sterilization in Indiana, Dr. Harry Sharp began performing vasectomies at the Indiana Reform School. Linking together the criminal, savage and idiot, Indiana became the first state to legalize sterilization for rapists and the feeble-minded in 1907; by 1937, thirty-two states legalized vasectomies for various crimes and conditions (Sheynkin 2009, 289).

As sterilization continued to be legalized in states, it increasingly became a tool to use against feeble-minded women. This shift in sterilization practice was indebted to sexist, racist and even suffragists’ tactics. Licia Carlson explains that women “were particularly dangerous” to the nation because they were “the symbols of procreative power” (2001, 127), but other forces contributed to this as well. Focusing on the period of 1870 to 1920, Louise Michele Newman argues that white women’s sexuality was carefully patrolled to protect the purity of the white race, while also condoning white men’s continued access to black, brown, and native bodies (1999). White suffragists also distinguished themselves from nonwhite and off-white women in order to stress their own moral superiority as a way to access political rights (Beisel and Kay 2004). These different forces pushed the bodies of feeble-minded women to the forefront of state patrol.

Eugenic fervor culminated in the United States in the Supreme Court case *Buck v. Bell* in 1927 in which the state of Virginia fought to sterilize Carrie Buck, an unwed and poor seventeen-year-old girl. Buck represented the sexual promiscuity of poor white mental defectives, despite the fact that she described her pregnancy as the result of sexual assault (Lombardo 2008). Justice Oliver Wendell Holmes’ decision was rife with eugenic logic:

We have seen more than once that the public welfare may call upon the best citizens for their lives. It would be strange if it could not call upon those who already sap the strength of the State for these lesser sacrifices, often not felt to be such by those concerned, to prevent our being swamped with incompetence. It is better for all the world, if instead of waiting to execute degenerate offspring for crime, or to let them starve for their imbecility, society can prevent those who are manifestly unfit from continuing their kind. The principle that sustains compulsory vaccination is broad enough to cover cutting the Fallopian tubes. [...] Three generations of imbeciles are enough.

Holmes' decision reflected the construction of idiocy as both criminal and useless, a category entirely opposed to upstanding citizens. Carrie's sister, thirteen year-old Doris, was also sterilized, but did not realize it until much later in life. She had been told it was an appendectomy.

Buck's history illustrates the continuing entanglement of race, disability and gender, as well as the ways in which the disabled contract increasingly was used to seal the identity of the cognitively disabled as a menace and threat to an able-bodied, white, middle-class norm. This history also provides insight into the flexibility and agility of the disabled contract to exclude and dehumanize multiple groups, not just the disabled. Sterilization eventually became a tool most often used on nonwhite, immigrant and poor women. Similarly to the eugenic construction of feebleminded women, poor nonwhite women were constructed as hypersexualized, contributing to overpopulation and creating an unbearable drain on societal resources (Stern 2005). The legacy of *Buck* also speaks to the ongoing questionable status of people with cognitive disabilities; the decision has never been overturned and seven states still have laws legalizing the forced sterilization of people with mental retardation (Silver 2003, 863).

In this section I have argued that the legacy of Locke's cast of marginalized characters finally culminated during eugenics, when the identities of the idiot, criminal, savage, child, and woman merged into a unified class of moral and mental degenerates. This culmination was

indebted to earlier entanglements, as described in the work of both John Langdon Down and Jean-Marc-Gespard Itard. The eugenic beliefs of Henry H. Goddard illustrate the deadly logic of exclusion as found in Locke's *Essay Concerning Human Understanding*. By insisting that political legitimacy requires universal consent while simultaneously declaring that cognitive incompetence defines an entire class of marginalized characters, Locke's system is fundamentally troubled by its conflicting beliefs. Eugenicists aimed to reconcile this tension by controlling and eradicating the incompetent—a final deadly consequence of questions of human status. In the last section, I briefly describe how the political movements for nonwhites, women, and the disabled in the United States have attempted to solve Locke's dilemma by attacking the *erroneous* charge of cognitive competence, a tactic that fails to disrupt the underlying logic of the disabled contract.

IV. Seduction of the Disabled Contract

Despite the shocking forms of injustice it engenders, the disabled contract is difficult to resist. Indeed, it may be the most seductive of all contracts. Explicit sanctioning of the disabled contract is often justified through paternalism. These instantiations of the disabled contract masquerade as impartial or benign. In sharp contrast, signatories to the racial or sexual contract uncomfortably straddle the moral egalitarianism of the social contract *and* ascriptive prejudice. Consenting to the racial and sexual contracts entails the support of domination, while consent to the disabled contract is defended as common sense, a necessary precaution or even benevolent care. Under this logic, the exclusion of cognitively incompetent subjects is justified through the need to protect their interests. If included, people with cognitive disabilities may unknowingly consent to their own abuse. Signing on to the disabled contract, however, may also be more

implicit. As the prior sections have established, the charge of mental incompetence has been used to exclude a broad swath of the population from both political and human membership, including nonwhites, women, children, immigrants and the poor. For these groups, disavowing cognitive disability is a prerequisite of joining the human and political community. In this section, I briefly sketch how marginalized groups and critical scholars inadvertently join Locke's enterprise of exclusion

In an analysis of political oppression in the United States, David Baynton argues that political exclusion has been built on the accusation of disability while inclusion is premised on revoking a disabled identity.

Disability has functioned historically to justify inequality for disabled people themselves, but it has also done so for women and minority groups. That is, not only has it been considered justifiable to treat disabled people unequally, but the concept of disability has been used to justify discrimination against other groups by attributing disability to them. (2001, 33)

Baynton traces the entanglement of disability in three pivotal debates in the United States: slavery, immigration, and the suffrage movement. Much of this entanglement focuses on the ways in which disability enabled the oppression of women and nonwhites, but Baynton also describes how suffragists deployed disability to defend their cause. He describes a popular suffragist poster made in 1893 entitled "American Woman and her Political Peers." In the center is the portrait of Francis E. Willard, a prominent suffragette. Surrounding Willard are the faces of four similarly excluded figures: the convict, idiot, madman, and Indian. Henrietta Briggs-Wall, suffragette and designer of the poster, explained women's reactions:

It strikes the women every time. They do not realize that we are classed with idiots, criminals, and the insane as they do when they see that picture. Shocking? Well, it takes a shock to arouse some people to a sense of injustice and degradation.⁶

⁶ <http://www.kshs.org/p/cool-things-american-woman-and-her-political-peers-painting/10294>

The shock that Briggs-Wall described is attributed entirely to the injustice of situating women alongside these other stigmatized groups. Here we can see how dehumanization of the feeble-minded is used to as an appeal to certain classes of women and similarly is used to build cross-class solidarity among women.

Even within the disability rights movement, appeals to rationality are difficult to resist. Mitchell and Snyder argue that physically disabled activists have been complicit with using cognitive disability as the “true” insufficiency (2006). James Charlton’s *Nothing About Us Without Us: Disability Oppression Empowerment* is a foundational text analyzing ableist oppression and the disability rights movement (1998). Charlton laments the absence of people with cognitive disabilities from his analysis, but fails to see how his reliance on a Marxist understanding of oppression enforces exclusion. Under this logic, each individual must undergo a profound change in consciousness to understand their own oppression, but this assumes that an individual can conceptualize himself as disabled. Likewise, Justin Dart, a disability activist proclaims, “Empowerment is the issue of the age.... Nobody is going to give it to us. We have to empower ourselves” (quoted in Fleischer and Zames 2001, 109). R.R. Anspach similarly insists that the first step of a successful disabilities movement is to convince others by their actions that they are “independent, rational beings, capable of self-determination and political action” (1996, find page number). Charlton, Anspach, Dart and Anspach endorse the logic of exclusion when they argue that full inclusion necessitates competency, independence, and self-awareness—all of which pose real problems for the severely cognitively disabled. Researchers point out that establishing these kinds of self-concepts may prove especially difficult for people with cognitive disabilities, who thus remain ostracized within their own movement (Finlay and Lyons 1998).

We can also see the seduction of the disabled contract in theoretical critiques of liberalism, most notably in the work of Charles Mills and Carole Pateman, two of the most prominent critics of mainstream social contract theory. While Pateman and Mills have brushed against the disabled contract, they never fully grasp its entanglement in the sexual and racial contracts. In their co-edited volume *Contract & Domination*, both theorists attempt to merge the intersecting oppressions of race and sex that they previously have only conceptualized separately. Neither fully sees the ways in which sexual and racial oppression hinges on the exclusion of the cognitively disabled.

In Mills's chapter, "Intersecting Contracts" (2007), he jettisons his dichotomy between personhood/subpersonhood that he developed in *The Racial Contract*, and instead generates three categories of political standing: (1) person/contractor (white men), (2) subpersons/ subcontractor (black men and white women); and (3) nonperson/noncontractor (black women). In this dynamic, black men and white women become partial signatories to the domination contract insofar as political membership hinges on their willingness to endorse either sexism or racism. Black women, because they have neither whiteness nor masculinity to barter, have no political standing. Their exclusion is evident in the civil rights and feminist movements in the United States, both of which neglected the political needs of black women, as well as the pioneering work of black feminist scholarship which constantly calls attention to their hybrid forms of marginalization. Mills's analysis, however, is troubled by his failure to add a fourth category of political membership: nonperson/noncontractor/subhuman. People with cognitive disabilities constitute this fourth group of subhuman status within Locke's social contract theory.

Pateman's essay, "Race, Sex, and Difference," argues that the exclusion of nonwhites and women was legitimated by their supposed cognitive inferiority (2007, 137), but she fails to

interrogate how the “lesser capacity for reason” is itself a kind of contract of domination that, rather than being just one component of the racial and sexual contracts, is also a system of oppression. Indeed, many of Pateman’s examples of racial and sexual oppression similarly affected people with disabilities, but she never mentions their relevance. For instance, Pateman describes “fairs, ethnological exhibitions, and ‘human zoos’” as public displays used to eroticize and marginalize nonwhite cultures (2007b 137). Pateman neglects the fact that disabled people were similarly treated as public spectacle. While she discusses the consolidation of racist and sexist discourse in the advent of eugenics, she ignores the ways in which disability anchored and propelled eugenicist science and policies. Instead, “feeble-mindedness” is just one of many traits that eugenicists used to oppress women and nonwhites, thus ignoring the thousands of disabled people institutionalized, sterilized, and euthanized during the reign of eugenic terror (151-152).

Just as political activists have colluded in the disabled contract, disability studies scholars argue that critical theorists are similarly prone to shirk any association with cognitive disability. Sharon Snyder and David Mitchell argue that queer, gender, and critical race discourses “have all participated to one degree or another in a philosophical lineage that seeks to distance those social categories from more ‘real’ biological incapacities.” Disavowing disability works to calcify disability as “true” insufficiency, and therefore legitimize the basis for the political exclusion and mistreatment of people with cognitive disabilities (2006, 17). While Mitchell and Snyder recognize that cognitive disability poses a distinct threat, elsewhere in their scholarship they collapse the distinction between physical and cognitive disabilities, particularly when they analyze the rationale and legacy of eugenics, thus erasing the ways in which the disabled contract is focused specifically on *cognitive* inferiority (2003).

One of the reasons why Mills and Pateman overlook the disabled contract is that, while it bears resemblances to Mills's description of the domination contract, the goal of the disabled contract is not so much domination, as disappearance. Here the specter of disability threatens the coherence of a nondisabled body politic *and* nondisabled bodies. Importantly, oppression can take many different forms with divergent purposes and opposing logics (Young 1990, 40). The disabled, racial and sexual contracts have both overlapping and conflicting logics. The primary objective of the racial contract is to legitimize white exploitation of nonwhites; it allows whites to exploit nonwhites for economic and sexual gain. The epistemological dimension of the racial contract obscures the logic of racism from whites, causing whites to remain ignorant of their own role in the perpetuation of racism. The sexual contract, in contrast, "establishes men's political right over women [and the] orderly access by men to women's bodies" (1988, 2). In addition, the sexual contract enacts an epistemological divide, bifurcating the world into public and private spheres. Although both women and nonwhites are subordinated by the racial and sexual contracts, they nevertheless remain beneficial to their oppressors, due to either their labor, sexual access, or both.

In contrast, the logic of the disabled contract is *disavowal*, not domination, in which the more able are most desirous to *remove, neglect and deny* the existence of the less able. Unlike nonwhites, the cognitively disabled seldom represent an exploitable workforce. Much more likely is the depiction of the disabled as economic drains of societal resources. Cognitive disability similarly alters the meaning of sexuality, but seldom in terms of exploitation. Their sexuality is primarily ignored or prohibited, whether due to their nature as asexual, sexually repulsive, or sexually irresponsible, particularly in relation to reproduction. The disabled thus constitute a class with little economic or sexual value. The disabled contract enacts an

epistemology of disavowal in which the more able disavow their own chance of becoming disabled, their responsibilities to the disabled, and the actual lives of disabled people.

Despite these differences, there are similarities between the contracts. First, there are exploitation dimensions of the disabled contract. For example, some strains of eugenic discourse emphasize the potential unskilled and low-wage workforce of the moderately disabled, eager to fill jobs too debased for the more intelligent. The disabled contract, like the sexual contract, similarly removes disabled issues from public scrutiny and instead enforces the disabled to a permanent private existence. In addition, women and men with cognitive disabilities are sexually exploited and face increased risk for sexual assault. When people with cognitive disabilities do report sexual assault, authorities are less likely to believe them (Arrayan). Both women and people with cognitive disabilities have been presumed incapable of consent, thus presenting problems in legal prosecutions about issues of rape and consent (Arrayan).

Additionally, the disabled contract's epistemology of disavowal shares many features with Pateman's settler contract. Pateman argues that the settler contract, in its strict form, "obliterates" the state of nature as a way to legitimize colonial conquest and the creation of white civil society, thus erasing nonwhite history (2007b, 39). But this erasure is incomplete. The state of nature haunts the white imagination, as it continually "acts as a threat and a warning of the disorder and nastiness that follow if the laws of the new state are not obeyed" (2007b, 39). Disability has this same dynamic of the simultaneity of a disavowed but persistent presence. By historically investigating the marginalization of disabled lives, we gain new theoretical insight into the ways in which oppression is both similar and different across intersecting identity groups. Moreover, because cognitive competence is a widely shared value—amongst activists,

feminists, and critical theorists—we can begin to realize that dismantling the disabled contract is a demanding and difficult undertaking.

V. Conclusion: The Disabled Contract as Inescapable

Dismantling the disabled contract promises not only to be difficult, but its consequences for social contract theory, and egalitarianism more broadly, also remain unclear. If personhood is detached from requirements of rationality, upon what grounds do the disempowered premise their political inclusion? What does empowerment look like without proclamations of self-competence as the basis for inclusion?

Undoing the disabled contract does not necessarily bode well for the disabled either. Once rationality is removed as the principle marker of personhood and the political equality of disabled people guaranteed, personhood suddenly loses political significance. The suggestion that people with profound cognitive disabilities *are* people seemingly empties the entire category of personhood of relevance. Peter Singer is, of course, emblematic of the belief that some nonhuman animals deserve more respect than the cognitively disabled. His argument is all too familiar, but somehow philosophers and theorists never get tired of hearing it. Stephen Dolgert, in a recent issue of *Political Theory*, questions if our conception of neighbor should also expand to incorporate “walruses, porpoises, or spiders within its ambit?” (2010, 859) You don’t have to be a philosopher to know that people with cognitive disabilities may not feel overjoyed at achieving political equality if they are rendered en par with bugs. Once again, attention to people with disabilities and the question of their political status is almost immediately diverted to the new focal point of nonhuman animals.

Most importantly, signatories to the disabled contract stipulate that only those capable of consent can achieve political equality. While nonwhites and women can mount a charge of overcoming the wrongful ascription of irrationality, people with cognitive disabilities are constituted as a group by the shared feature of impaired mental functioning. True, cognitive disability is an umbrella term for all kinds of people with all degrees of impairment, from mild to severe. Many people with cognitive disabilities are capable of consent, reflection, and thus under the social contract, should equally participate in the political franchise. Embracing people with mild cognitive disabilities as political equals, however, only serves to reinscribe the disabled contract for the more profoundly disabled.

For people with profound cognitive disabilities, social contract theory's increasing enrapture with rationality must be broken if egalitarianism can be restored. Conceptualizing social contract theory as a reasoning device that abstract rational agents employ to discern principles that all reasonable people would accept is, simply, unreasonable as a universal promise of egalitarianism. But social contract theory, as many have noted, is itself a storehouse of varied principles, discordant tools, and different premises. Buried within these may be a way to reconstruct the social contract without recourse to the disabled contract. The next chapter examines how self-advocacy groups run by and for people with disabilities navigate the promises and paradoxes of social contract theory. We find that this navigation proves difficult, as the discourse of self-advocacy groups too often pivots on assertions of cognitive competence and thereby reinforces the paradox of personhood.

CHAPTER 5

SELF-ADVOCATES WITH DISABILITIES CLAIMING AND CONTESTING THE SOCIAL CONTRACT

Dominant conceptions of personhood hinge political membership on a cluster of cognitive capacities. In this dissertation, I have argued that this conception of personhood is an inheritance from Locke's *disabled contract*, the terms of which deny the political and human equality of people with cognitive disabilities. Prior chapters examined the disabled contract in liberal political thought and in the historical practices surrounding people with cognitive disabilities. In this chapter, I turn to contemporary self-advocacy groups dedicated to the political empowerment of people with cognitive disabilities. Given the disabled contract's troubled legacy in theory and history, how do contemporary self-advocates with disabilities and their allies frame political claims for inclusion? Do they demand political membership based on the traditional norm of cognitive competence established within social contract theory? Or do they contest the legitimacy of cognitive competence as a marker of political equality and thus aim to transform the foundation of political equality more broadly? In fact, self-advocates and their allies pursue both strategies. They demand recognition as cognitively competent persons in order to gain political standing while simultaneously contesting narrow norms of personhood that enforce their exclusion. Self-advocacy efforts thus straddle an uncomfortable *paradox of personhood* at the heart of social contract theory: the promise of human and political equality amid profound differences in cognitive disability.

More specifically, I argue that the paradox of personhood enforces a threshold measure of cognitive capacity even when self-advocates' aim to displace cognitive competence as a marker

for political and human membership. I explore this tension between equality and disability through my observations of People First, a state-wide self-advocacy organization run by and for people with disabilities, and SABE, Self Advocates Becoming Empowered, a national organization largely made-up of People First chapters. Just one of many self-advocacy organizations found in the United States, People First operates through a network of local chapters that serve as political outlets for members to address concerns around employment, transportation, healthcare, and housing. Like the broader disability rights movement, People First directly challenges the idea that people with cognitive disabilities are personally and politically incompetent. This adamant denial of incompetence, however, threatens to intensify the normative commitment to the disabled contract and, in addition, evades the hard question prompted by people with profound cognitive disabilities whose impairment precludes conformity with cognitive competence.

Importantly, my analysis of self-advocates with disabilities is driven by a feminist research ethic and feminist theory. My analysis builds on prior feminist scholarship that relies on the empirical experiences of women, women activists, and noncitizens engaged in political struggle to inform the development of normative theory (Beltrán 2009; Ackerly 2000; Mahmood 2004). Methodologically, incorporating disabled voices is congruent with the disability rights movement's motto of "nothing about us, without us" and rectifies scholarship about disability that excludes the involvement or insight of disabled persons. Relying on advocates' voices also momentarily suspends the epistemological authority of the researcher with the intent to allow the experiences of those most marginalized to guide the development of theoretical claims.

In addition, my understanding of key concepts—including *compulsory rationality* and the *paradox of personhood*—is derived from feminist theory. I use these concepts to describe in

more detail the ways in which the disabled contract enforces conformity. Compulsory rationality builds on feminist and queer theorists' understanding of compulsory heterosexuality in which "lesbian experience is perceived on a scale ranging from deviant to abhorrent, or simply rendered invisible" (Rich 1980, 632). Within disability studies, Robert McRuer similarly argues that the "problem" of disability is not situated in disabled bodies but rather the "inevitable *impossibility*, even as it is made *compulsory*, of an able-bodied identity" (2006, 10 emphasis added). I argue in this chapter that a similar dilemma undergirds the lives of people with cognitive disabilities and, insofar as they are unable to cultivate a rational identity, their lives are marked as pitiful, repulsive, or nonexistent.

My understanding of the paradox of personhood is also informed by feminist theory and is specifically indebted to Wendy Brown's work on the paradox of rights (2000). For Brown, "Women both require access to the existence of this fictional subject and are systematically excluded from it by the gendered terms of liberalism, thereby making our deployment of rights paradoxical" (239). Brown describes the paradox accordingly,

even as invocations of rights for a particular subject (e.g. women) on a particular issue (e.g. sexuality) in a particular domain (e.g. marriage), all of which have been historically excluded from the purview of rights, may work to politicize the standing of those subjects, issues, or domains, rights in liberalism also tend to depoliticize the conditions they articulate. Rights function to articulate a need, a condition of lack or injury, that cannot be fully redressed or transformed by rights, yet can be signified in no other way within existing political discourse. (239)

Like Brown's analysis of women's activists whose allegiance to rights improves women's conditions while simultaneously enforcing their conformity to femininity, self-advocates with disabilities find themselves in a paradox of personhood in which they need access to the respect and rights attached to compulsory rationality while careful not to further marginalize people with more profound impairments. Theorists' and activists' ability to articulate a conception of

personhood without vestiges of liberalism may prove more difficult than conceptualizing women's empowerment outside of rights.

In this chapter, I explore how social contract theory's conception of personhood—that locates political equality in cognitive competence—not only marginalizes people with cognitive disabilities, but also causes us to overlook the full range of political strategies self-advocates and their allies employ in the activities of People First. In short, the disabled contract constrains the full expression and recognition of personhood. This chapter is divided into four parts. Part one of this chapter broadly sketches the self-advocacy movement and the ways in which it is affected by the paradox of personhood. The second section describes my observations gathered from a local chapter of People First. Many of the individual members of People First I observed are unlikely to articulate political demands or conceptualize their activities as a form of political mobilization. Their combined public presence, however, effectively captures and conveys core values of the disability rights movement (and democracy more broadly), including equality, publicity, inclusion, accessibility and freedom. In part three, I use observations gathered from SABE's national conference to better understand my evening with People First; I argue that we can derive specific and yet unarticulated tools employed by self-advocates to contest compulsory rationality embedded at the root of the disabled contract. In the conclusion, I use the analysis of my observations to return to the question of the disabled contract in the midst of its persistence, troubles, and seductions.

I. Overview of Self-Advocacy Movement

In this section, I sketch the origin, history and tensions surrounding the self-advocacy movement, primarily within the context of the United States. Self-advocacy can be defined

loosely as a movement by and for people with disabilities, most often associated with people who have cognitive disabilities. Self-advocacy straddles a difficult tension. On the one hand, self-advocates and their allies need to challenge cognitive competence as a marker of personhood; they need a method of advocacy that overturns cognition as a central marker of difference. On the other hand, self-advocates demand recognition as cognitively competent citizens who are savvy political actors. They do so in order to gain the requisite political standing to challenge cognitive norms; without which, their challenge is never heard. This tension is exacerbated due to the wide spectrum of capacities represented by people with cognitive disabilities. Self-advocacy groups include members who are capable of acting for themselves, others who require assistance, and still others who cannot participate in traditional ways due to profound impairment. Navigating these differences in light of the wide spectrum of intellectual and developmental disabilities is extremely difficult.

For example, over-attention to profound impairment risks marking all people with cognitive disabilities as incompetent. In a collection of essays written by women with physical disabilities, Lois Keith describes a similar dynamic in which disabled people are reticent to acknowledge any discomfort caused by their physical impairments; they fear that the nondisabled—already beset by prejudice—will interpret this admission as proof that disabled lives are entirely pervaded by misery (Keith 1996). Especially because societal prejudice is quick to dismiss people with impairments, a focus on the profoundly cognitively disabled threatens to disqualify all people with cognitive disabilities from the political sphere. Emphasizing cognitive competence, however, also has its risks, primary of which is reinforcing a threshold level of rational capacity as a precondition for political rights, which in turn renders some people with cognitive disabilities invisible.

In addition, tensions are compounded within the disability rights movement by the multiple set of actors involved whose interests, goals, and basic understanding of disability diverge. Medical and educational professionals, parents, siblings, disability rights activists and self-advocates employ different strategies, pursue different objectives, and, most importantly, are situated differently in regards to power, prestige and standing. Disability rights activists struggle both with parental advocates and professionals. The disability rights movement—largely pioneered by people with physical and sensory disabilities—is organized around key tenets of independence, self-determination, accessibility, and inclusion. By focusing on disabling attitudes and structures, disability rights activists predominately maintain a social model understanding of disability in which the effects of impairment and disability are disaggregated. Parental advocacy groups, in contrast, often mobilize around the devastating emotional hardships brought on by a disabled child, the development of effective treatments and cures, and the long-term dependency needs of disabled children. In addition, some familial advocacy groups focus specifically on the rights of parents or siblings, whereas others focus on the rights of people with disabilities, and still other groups attempt to advocate for both disabled and nondisabled parties. While parental advocacy groups have embraced self-determination as a goal (Sprague and Hayes 2000), tensions remain between parental activists and self-advocates. However, parents and activists often find a common opponent in professionals who are often criticized for an overt attachment to the medical model, their undue amount of influence in public policy, and co-opting the value of self-determination to bolster their own existence (Aspis 1997; 2002).

While professionals function as a common enemy, both parents and activists have come under heavy attack. Parental advocacy efforts are often criticized by disability rights activists as promoting the infantilization and institutionalization of people with disabilities (Hughes et al

2005). Critiques of the disability rights movement include its lack of diversity (Walmsley, 198; Fleischer and Zames 2001) and balkanization along impairment categories that prevents alliance. In fact, even the language of self-advocacy provokes discord. Although “self-advocate” could potentially refer to anyone advocating on behalf of herself, it is often assigned only to people with cognitive disabilities. Physically disabled activists reject the term as a way to disavow any kind of cognitive impairment.

The tension between activists and parents maps onto a liberal legacy embedded in the disabled contract: activists demand recognition as persons capable of self-determination whereas parents claim to speak on behalf of their disabled children whose impairments and dependency needs preclude them from politics. For John Locke (whose work was analyzed in chapter two), “idiots” are bodily different from full persons and therefore remain permanently in the private realm under the tutelage of their parents (Arneil 2009). Social contract theory does not offer a way to conceptualize a person with profound cognitive disabilities as simultaneously dependent and politically meaningful. Locke thus sets up a tension where it is impossible to appear in the public political realm without passing a threshold level of cognitive capacity. By mobilizing strictly around self-determination or dependency, activists and parents risk joining Locke’s enterprise of exclusion.

Compared to other disability rights groups and parental advocacy groups, self-advocacy is relatively recent, with the first self-advocacy group in the United States established in 1974. In comparison, The League for the Physically Handicapped began in 1935; the National Federation for the Blind was created in 1940, and one of the first parental rights groups, The Arc, was

launched in 1953.⁷ Tensions between people with disabilities and parents are evident in the origin of the first self-advocacy group, credited to a group of people with cognitive disabilities in Sweden. In 1968, they mobilized against a parental rights group whose motto claimed “We speak for them” (Wehmeyer 2000).⁸ Over the next five years, similarly motivated organizations began to spread throughout Britain and Canada and, in 1973, the British Columbia Association for Retarded Citizens sponsored the first convention for people with cognitive disabilities in the United States. In 1974, the first self-advocacy conference was convened by American self-advocates in Salem, Oregon. According to People First of Oregon,

In the course of planning the convention, the small group of planners decided they needed a name for themselves. A number of suggestions had been made when someone said, “I’m tired of being called retarded—we are people first.” The name People First was chosen and the People First self-advocacy movement began.⁹

Currently, People First describes itself as a self-advocacy organization “run by and for people with disabilities” and credits itself with being the “oldest and best known” self-advocacy organization in the United States. While People First remains a state and local organization without national headquarters, it has an estimated 17,000 members.

Fundamentally, People First challenges the idea that people with cognitive disabilities are personally and politically incompetent. The website of People First of Oregon states, “WE ARE

⁷ Originally the Association for Retarded Children, it later changed its name to the Association for Retarded Citizens, and is now known as The Arc. The naming of advocacy groups can still arouse hostility, especially as these names embody the tensions often between fostering independence and securing protection.

⁸ This pivotal issue—who speaks for whom—continues to fuel debates between disability rights activists and allies, especially families of people with cognitive disabilities. Skepticism of parental advocates is fueled by a history in which the well-being of disabled children can at times be seen as secondary.

⁹ People First of Oregon. “What is People First.” http://www.people1.org/about_us_what_is.htm (February 12 2010).

PEOPLE FIRST AND WE CAN SPEAK FOR OURSELVES!” Similarly, People First of California describes their philosophy:

People with developmental disabilities are the only people to empower other people with developmental disabilities. Only the people, who are part of a certain culture, can “empower” people of that culture; to become strong, they have to make the decisions and do the work of their movement, themselves. [...] Professionals and people without developmental disabilities cannot control the People First movement.¹⁰

People First thus accords significant value to autonomous agency, emphasizing the importance of members leading the organization and mobilizing other people with cognitive disabilities. Self-determination is pivotal, in part because liberal political societies highly value norms of independence and autonomy, but also because the history of people with cognitive disabilities is marked by a profound form of powerlessness arising out of their presumed inability to think, feel, work or contribute anything of any value.¹¹

Consequently, creating self-advocacy groups in which members control the agenda and make key decisions is considered one of the most effective methods to empower people with intellectual disabilities (Tsuda and Smith 2004). Problematically, nondisabled group advisors often exercise undue influence on group decisions (Garcia-Iriarte et al) or underestimate the ability of self-advocates with cognitive disabilities (Goodley 2001). To rectify this, scholars aim to increase the political voice of individual members (Goodley), to build relationships between

¹⁰ People First of California. "The History of People First of California." <http://www.peoplefirstca.org/history.html> (February 12 2010).

¹¹ To this extent, People First’s description of itself, its concept of disabled identity and its political agenda reflect broader currents in the disability rights movement, as well as civil rights movements in general. Accordingly, Simi Linton, a scholar of disability studies, describes disabled identity as similar to other political identities, arguing that a person is disabled when they say they are disabled (2006). Justin Dart, a disability rights activist, similarly argues that “Empowerment is the issue of the age. [...] Nobody is going to give it to us. We have to empower ourselves” (Fleischer and Zames 2001). In part because the history of disability is saturated by the inability of people to control their own lives and their very bodies, self-determination is a crucial component driving disability rights.

people with disabilities (Sprague and Hayes 2000), and to identify what type of organizational structures promote individual agency (Garcia-Iriarte et al 2009). While these interventions are important, they circumvent and highlight the tension between inclusion based on competence and profound cognitive impairment.

Self-advocates who use self-determination as a guiding political principle face two primary hurdles that, when examined together, powerfully cement the paradox of personhood at the foundation of disability rights. First, self-advocates argue that professionals—such as service agencies—threaten to co-opt disability rights by paying lip-service to self-determination, but then rarely displace the power differential between professionals and self-advocates (Buchanan 2006; Aspis 1997). Second, when self-advocates and their allies refuse to engage with the tension of cognitive impairment and self-determination, they may de facto surrender these issues to other organizations, perhaps surrendering them to the professionals which they critique. If self-advocacy aims to represent a broad spectrum of people with cognitive disabilities—which indeed it does—then it cannot circumvent these issues related to dependency, self-determination, and profound cognitive impairment. In the next section, I analyze my observations of People First and describe the ways in which theoretical and political tensions between self-determination, equality and profound disability surface in the daily practices of self-advocates at the local level.

II. People First: Paradoxes in Self Advocacy

My interest in People First began after I attended a national conference in Washington, D.C., organized around disability rights and policy making for people with developmental disabilities. While I had attended other state and national conferences convened around

disability, this was the first in which self-advocates played a prominent role. Throughout the conference, self-advocates asked key questions, participated on panels, and recounted their own experiences of injustice and abuse while living in state-run institutions. In these activities, self-advocates expressed a form of autonomous agency clearly recognizable along traditional liberal accounts: they identified as disabled, interpreted their own experiences through the lens of a shared disabled identity, and made political demands on the basis of this identity. Active in the larger general conference and break-out sessions was Julie Petty, president of SABE (Self Advocates Becoming Empowered), and it was through SABE that I learned about People First.

My observations in Washington led me to expect a similar form of political mobilization occurring at the local level of People First. People First operates as a statewide organization which is made up of a network of local chapters. Between November 2008 and May 2010, I observed the day-to-day operations and local chapter meetings of the People First office centrally located in a Southern state. Arlene Smith, the director, describes People First as

an outlet for people with disabilities, to air and alleviate their concerns about disability related issues, and to work together to address those issues. We empower our members by teaching them what their rights are and what their responsibilities are, and giving them tools that they need.

The regional People First office that I observed employs four people and has three regional offices—East, West, and Central—which serve around twenty to twenty-five local chapters. Some of the employees of People have visible disabilities: both Arlene and the western coordinator use wheelchairs, but Bobby, the Central coordinator does not have any visible disability. During my time of observations, I never met the coordinator from the East. Although People First describes itself as an organization run by and for people with disabilities, it is possible to be employed and be nondisabled, as at one point, Arlene and Bobby offered the

Eastern coordinating position to me. All the employees I met are white, although the meetings I attended were more racially diverse.

Echoing a similar historical pattern from the first self-advocacy group in Sweden and the first chapter of People First in Seattle, Arlene described to me how the first chapter began:

[It] started with a small group home that actually had seen a movie about an organization in Oregon. These people in Oregon, they were empowered; they were speaking up for themselves; they were making changes in their state, and so these people, this group of I think twelve people that lived in a group home at that time, saw this movie, and they said 'we want to do that here.'

Since then, the number of chapters has varied, reaching a high of forty, but has since declined to around twenty. Perhaps the most visible time in their history came in the late eighties and early nineties when the state office of People First was embroiled in a series of lawsuits surrounding the quality of care for people with disabilities at three remaining state institutions. After the death of several clients and reported abuse, People First successfully advocated for legally mandated state appointed advocates for clients residing within institutions. By emphasizing the need to educate members about their rights while also fighting for the legal mandate of outside advocates, People First straddles both the demand for self-determination and a recognition of the needs and vulnerability of people who may not be able to advocate for themselves.

People First's central office is located in an old office building in a southern suburb of the state capital. They moved into their current office when they could no longer afford their previous location's rent. The building finds itself squeezed between fast food chain restaurants, gas stations, and strip malls. The lobby opens into a deserted first floor, once occupied by a Chinese buffet that has since abandoned its space but has left a large bronze mural opposite the elevator. The one room office of People First is on the third floor at the end of the hall; taped on the door is the logo and phone number. Arlene's desk is at the back of the room, partially

obscured by a large book case and the large cumbersome computer and printer sitting atop her desk. Arlene is surrounded by empty desks left from another advocacy agency that had at one point shared this space with People First, but had disbanded when budget shortfalls made it impossible to continue advocating for its clients. During my time of volunteering, People First faced its own budget crisis. While their State grant had been renewed, it was delayed, causing Arlene to forego her salary for four months and to eventually lay-off the Eastern coordinator.

People First is not only economically vulnerable in relation to the state—particularly in the current climate of fiscal restraint and budget crises—but it is also hampered by the agencies which serve their members. Coordinating meetings and events is only successful if agencies cooperate. For instance, out of the twenty local chapters, only one is able to meet in public; the rest gather in the residential homes or sheltered workshops in which the members live and work.

When I asked Arlene to explain this discrepancy, she sighed, and explained:

Actually we would like all of them to be meeting out in the community, but for one reason or another, I think for most of them if we tried to meet out in the community they wouldn't get there, just for transportation issues, so, for convenience sake we meet in the agencies a lot of time, and there are some agencies that are willing to work, and get their people out to different places, but for the most part, we do good just to get [the agencies] to let us come in there.

She then laughed. On the one hand, Arlene attributes the difficulties of meeting to issues of transportation, but the end of her statement suggests that there is more to agencies' resistance. As my relationship with Arlene grew, I learned that her laughter was a common response to exasperation. In this case, her laughter suggested the kinds of difficulties that people with cognitive disabilities face in seemingly simple activities like group gatherings, like going out to dinner, and the tensions that can arise between people with cognitive disabilities and their support staff. Arlene's laughter reminds us that support staff and self-advocates are not always allies.

People First exposes the political dimension in everyday activities, especially for people with cognitive disabilities who live in group residential settings. Thursday Night Nighttime, the only chapter to meet in public, thus occupies a unique position amongst the twenty to twenty five groups across the state. Thursday Night Nighttime offers an account of political personhood coterminous with social contract theory, but it also suggests a more transformational move. While traditional accounts of personhood rely on the image of the solitary sovereign subject whose political agency is understood primarily through a cognitive lens, the members of People First enact an alternative vision of collaborative and spontaneous public action. In this second model, attention shifts from the person's own self-understanding and self-direction, and instead centers on the ways in which the person moves in the world in the presence of others. Thursday Night Nighttime, in some ways, displays both sides of the disabled contract as it simultaneously expresses a form of personhood attached to cognitive competence while also shifting to more complex and critical versions of personhood.

Thursday Night Nighttime

The Thursday Night Nighttime chapter meets at a local buffet restaurant in a room that is separate but still visible. Waiters and patrons pass often through the swinging doors going back and forth to the buffet. Once everyone arrives, the evening begins with the monthly meeting, which lasts around thirty minutes, and is followed by dinner. After dinner, ample time is left for conversation, fellowship, and fun. On my first visit, around thirty five people are scattered across the eleven tables in the room. Most are African American and male; eight are white and thirteen are women, including Arlene. Approximately twelve men are cognitively disabled, leaving around six or seven male employees. Among the women, eight are staff. Most of the women

with disabilities, all except one, sit at a corner table by themselves (along with female employees working with them). However, besides visible markers of physical disability, it is difficult to identify in certainty who is cognitively disabled or nondisabled in this type of setting. In fact, cognitive disability can be a difficult category to *see*. Frequently disability is revealed only when someone begins to talk or to associate with someone else.

Employees behave in a variety of roles: some are more supervisory and oversee the behavior of members directly; others are involved in the organizational structure of People First; while others seem to fill the role of friend. Employees more concerned with overseeing the actions of people with disabilities balance different tasks: helping members get food and utensils; chaperoning members to the bathroom and outside to smoke. In general, this kind of employee is more likely to be female. Three of the women who were in this type of work are associated with more severely disabled individuals—and by severe I mean individuals whose intellectual disability was compounded with a sort of physical disability (made evident by a person being in a wheelchair, who had difficulty manipulating utensils, wearing a protective helmet, or who appeared to be nonverbal). Male employees more often seem to fill the role of friend and audience—perhaps in part because most of the clients are men as well, but also because gendered dynamics of the disabled contract—that associate women with the private realm and dependency needs—continues to inform nondisabled and disabled interactions.

During the meeting, I sit across from Mason who chairs the meeting. Mason is a young black man who wears his hat towards the back of his head so that all I can see is the underside of the cap's bill. He is soft spoken and often cuts off the end of words, so that "business" came out sounding like "bizzn" and "What's your name?" became "Wassuhnaaa?" with the emphasis on the "Wa" while "name" faded into almost silence. Mason is seated next to Bobby, another

People First employee, who helps Mason move through the agenda. Bobby always asks, “Do you remember what’s next?” Mason never remembers, and so Bobby points to each line, explaining to Mason what to say. “Now ask if anyone has any new business,” Bobby explains. “New...,” Mason responds, but then fails to finish the sentence. “New business,” encourages Bobby.

The first item of business is calling the roll, meaning that Mason points to every person in the room, asking “Wassuhnaaa” and waits for a response. This is a relatively easy task at our table where Mason is seated, but his voice is so soft that many people to the side do not hear him. This does not bother Mason as he continues pointing at individuals and asking their names, even if that person does not look at him. In this way he seems oblivious to the idea that if someone does not realize he is pointing toward them, they do not answer. However, Mason never raises his voice nor makes any other type of command to alert a table he is calling their roll. In fact, his humorous exasperation suggests that he attributes the fault entirely to others. In these cases, Bobby or someone else calls attention to the person Mason is pointing toward. At the back table with the women, a female employee introduces the others by name—other than that, most people introduce themselves.

After the roll is called, the old minutes are read by an employee, carefully and slowly. Most of the minutes are in fact a repetition of names, as the previous month’s roll call is the bulwark of the minutes. Mason then asks Betty to give the treasurer’s report. Betty is an older white woman wearing a blue sweatsuit and bowler haircut. The treasurer’s report unfolds like the old game of telephone: first a supervisor whispers the number to Betty’s attendant, who then whispers it to Betty, who then barks out in a deep voice: “Fifty one dollars!” The attendant audibly whispers to Betty again, saying, “And seventy one cents.” But this time Betty’s voice is softer, with most of the syllables inaudible, so that all we hear is, “Sevvv teee sssss.”

During old business, Arlene and Bobby state that last month's meeting when a woman came in to talk about voting was a real success. Tonight's meeting is just two days after the presidential election. Arlene asks how many people have voted. Several people, I think five or six, raise their hand. They agree that last month's mobilization efforts went well, that they should do it again, and that several people had registered and voted for the first time.

When Mason calls for new business, Arlene explains her proposal for next month's meeting: rather than meet at the restaurant for dinner, the group can instead have a Christmas party at the community center. Instead of dinner, they could have a dance with a D.J. and have some snacks, and possibly some sandwiches, with an admission charge of \$10. When Arlene mentions dance, Mason pumps his fist in the air, exclaiming, "Yeah, a dance!" Questions from staff members are answered and the vote for the dance is about to begin, but a black man with a goatee sitting in the corner in a white netted ball cap asks if having a dance means that they cannot go out to dinner. He is very concerned with whether the agency will be notified beforehand. I do not know if this man has a disability or not. He is given an answer but is not satisfied. The group tries to vote, but the meeting becomes disordered. First Mason asks people who are in favor of the dance, but only a few people assented. Bobby and Arlene then tell Mason to ask *instead* if anyone opposes the dance. This time, no one says anything and the measure passes. The concerned man from the corner again asks if it means they will not be having dinner at the buffet restaurant – Arlene explains to him the vote and the meeting moves on. But later in the evening, I overhear the man talking to other staff members, leaning on their table, asking them questions about the dance. When the dance passes, several men start talking excitedly about a possible "dance-off." Sue, another staff member, tells them to start practicing and to remember their dancing shoes.

At this point, when the meeting seems about to adjourn, Mason asks for a final time, “Any new business?” Behind me, a black man sitting at a table raises his hand. Bobby points this out to Mason who then gives the floor to the man. “Yeah, I got new business,” he says loudly, “Barack Obama is our new president!” Suddenly, people laugh, some clap, and some holler in delight. The room is overcome with joy. Shortly thereafter, the meeting is officially ended by a prayer given by an older black client. The only words that I understand from his almost inaudible mumble are, “Dear God...thank you...this food...amen.”

In many ways, we can see traditional accounts of personhood and liberal political behavior: interest in voting, recent presidential election, the different appointed officers, and the protocol of the meeting. However, in other ways members of the Nighttime chapter fail to achieve sufficient autonomy to achieve requisite personhood status. Mason was unable to lead the meeting and only mimicked the words of Bobby. Most of the discussion of new business was held by nondisabled People First advisors and staff. We might ask, referring back to the statement of purpose from People First, if members understood themselves as political, if they understood their rights and responsibilities, and if they situated themselves within a broader movement of disability rights activism. To all appearances, Thursday Night Nighttime is steered by a few cognitively able advisors and staff members who are largely surrounded by passive support staff and disabled clients. The meeting, however, constituted a relatively short part of the evening; the remainder of the night was spent over dinner and fellowship.

During most of my dinner, I was engaged with the man who had said the prayer. His speech was difficult to understand—both soft-spoken and slurred—and so I asked often for him to repeat himself. I did not want to nod along to stories that I only pretended to hear, but eventually I got the sense that asking him to repeat himself so often made him feel frustrated.

And so eventually our conversations were less documented by words, and more occupied with smiling at each other, smiling at our food, and then smiling back at one another. Mainly he pointed out how much he had eaten, (pointing to three plates of food, each plate now stacked on top of one another), and how much Coke he had drunk (pointing at each empty glass: “One...two...three...four.”) With a broad smile and his hands patting his stomach, I knew he was reflecting on a good meal, and so I smiled at him and tried to express similar sentiments about the buffet dinner that I internally thought was both bland and unappetizing. “One time,” he began, and then related a story about how much he enjoyed sleeping, and about a particular day when he was so tired he didn’t want to get out of bed. I waited for the climax, but soon realized that, for him, there was no more to tell.

While most people were still eating, Arlene and Bobby prepare to leave, at which point Sue reprimands them, “You can’t leave your guest!” Arlene turns back to me and I encourage her to go, reassuring her I am okay. As they leave, Arlene invites me to their upcoming December dance. With the two paid employees of People First gone, dinner mostly eaten, the real fun began to get underway. Mason has moved to another table behind us with a young black man who I assume to be an employee because, like other staff members, he wears an ID card. He laughs a lot and causes Mason to laugh a lot as well. This pattern of movement and laughter then travels throughout the rest of the room as more people finish eating, leave their seats and visit one another.

The room grows louder, including the employees. At a table close by, two disabled black men and two black women employees surpass all others in their boisterous fun and good-natured teasing. One of the women is named Monique—a name easy to remember since it was often yelled out across the room by many different people. Monique and the other woman often talk to

two women supervisors at the table beside them. Between them passes much mischievous and good-natured fun. When Liz gets up to get dessert, a waiter takes her dinner plate, and when he also grabs her silverware, the women allow him to take it away, knowing Liz will need it when she returns. They all wait, holding back their giggles, watching Liz piling her plate with more and more dessert, all the while with no realization that the waiter has taken her fork and spoon. When she returns, they all break out in laughter. Liz smiles and simply unrolls the set of utensils placed right beside her by the empty chair.

One of the men laughing with Sue and Liz is the man that announced Obama as the new president. The other man at their table begins to speak often of own his dancing abilities, "I'm the best dancer in the room," he claims. The women tease him to dance, but because he isn't wearing his dancing shoes and because there is no music, he cannot show the room any of his moves. He is certain that he will win the dance-off in December. Many people good-naturedly tease him to dance, but he adamantly refuses.

The talk of dancing grows and challenges to dance increase. Finally, a young slender black man wearing all black and a black cap gets up and positions himself at the center of the room, between the rows of tables. On the right side of the room sits almost entirely black men, and within them sit two or three employees who are the loudest, constantly encouraging people to dance. The slender man stands and faces the taunting crowd, perfectly still for a moment, but then his body slowly slides into dance: with his right hand on his chest, his feet move in a series of stationary steps. Suddenly, he twists his left foot around his right and gives a smooth and slow pirouette. Returning to his initial position of facing the raucous male crowd, he slides the thumb and finger of his left hand across the brim of his hat, signaling his big finale. The crowd erupts! Women and men cheer and clap as the man turns and walks proudly back to his table.

Amidst much laughing and clapping, the crowd turns their attention to the man who has forgotten his dancing shoes. “Show us some of your moves! Just one!” He protests, but before he even gets the chance to dance, the man all in black returns to his position and begins dancing again, this time incorporating more moves from his body. As the cheering continues, he continues to dance. Another man, who has been sitting quietly in the corner, also gets up. This is Stan who had introduced himself to me earlier in the evening. Stan is a short middle aged white man, wearing a fanny pack under his round belly and a seemingly permanent pinched smile on his face which even pinched up his eyes in a similarly permanent squint. When Stan stations himself in the back of the room where there is some empty space, he controls the room’s attention. He then begins to copy the young black man’s moves: holding his arms bent close to his waist, he turns in a slow circle, smiling the entire time. At the end of the rotation, the people in the room, including myself this time, cheer and laugh. Stan sits down, but his dance triggers more opportunities of performance as more and more people began to give solo dances: the young man in blue, Mason, and the man in black again dance. They never dance at the same time: each one is a performance and to get full attention, no dancing is done simultaneously.

Around this time, Sue leans over to me across the aisle and says, “When the meeting’s over they like to have fun!” She was right: it is fun, and the fun is contagious, as the enjoyment spreads across clients, employees, and even the waitressing staff that bustle in and out of the room. As the room grows louder and men continue to dance, I look through the glass at a white couple seated at a booth on the other side of the restaurant. They stare with blank faces into our room, quietly looking on to the boisterous fun. I wonder what they think: did they realize that the men dancing are intellectually disabled? Would it have made a difference? Or do they perceive

the activities of People First not through the lens of disability, but rather through the narrative of race?

The young black man continues to dance—and generally the staff has put aside all of their overseeing roles. There seems to be little patrol of behavior, until the young man turns around, now facing me, maybe four feet away, and begins to dance with more of his body. His hips began to gyrate back and forth. “That’s enough,” says Sue, “go sit back down.” I don’t know if it is his position toward me that ignites this reproach, but regardless, he does not seem perturbed. He makes his way back to his table, but before he can sit down, he turns around and resumes his position, now turned the other way towards the men. He gives the same hip-shaking move, but now it is met with no reproach.

Around this time, people began to leave. The man who had said the prayer asks to smoke and is given a lighter that is zipped in a bag. A man volunteers to go outside with him. Other men volunteer to chaperone men to the bathroom. The boisterous table of four gets up to go. The “best dancer” has still not shown us any moves. Together the four of them stand in front of Liz and Sue’s table and talked.

“Tell them what you’ve been doing,” says Monique.

“Ka-ra-tay,” the man says, slowly with a smile, emphasizing the “tay” at the end of the sentence.

“Show us some moves.”

The man at first stands still, as if he would refuse this too, but then suddenly his right arm stabs sidewise into the air. The women erupt in laughter, but this in no way ridicules his exuberance, but rather encourages him. The laughter is not hurtful, but is carried on in the fun and exuberant manner that had overtaken the evening. Once they leave, I linger for a few

minutes and then say good-bye to Sue and Liz. Like Arlene, they invite me to attend the Christmas party and to “bring some friends.”

When I make my way out of the restaurant, I can see the group of four is still moving slowly, laughing loudly, and in no hurry to leave. As I approach the exit, a young man in the brown suit is standing by the cash register. He had been the first I had spoken to that evening, explaining myself as a graduate student from the well-known elite and private university. “Did you get some good observations?” he asks. I quietly assent, thanking him.

In front of me and between the doors is the group of four, still talking about Ka-ra-tay. They are teasing the man to show some more moves, and then suddenly, the man’s posture slides down, his back tilts backwards towards the floor, and – kick! – he stabs the air with a quick but low kick with his right leg. More laughter thunders out as we all make our way out the door. I wave good-bye as I walk towards my car while people still howl with laughter behind me and more people begin practicing ka-ra-tay behind me.

Despite my enjoyment of the evening, I initially worried about the efficacy of People First and Thursday Night Nighttime. My expectations had been forged through observations of national conferences in which participation was more formal, organized, and plainly legible within a liberal model of political identity. Thursday Night Nighttime lacked many of these markers of political advocacy: on first examination, it seemed disorganized, controlled by able-minded advisors, and more interested in social connections rather than political transformation. But as my involvement with People First continued—volunteering in the office, facilitating other chapter meetings and organizing events—I began to realize how Thursday Night Nighttime is both unique and highly successful.

Understanding the success of Thursday Night Nighttime requires an appreciation of the difficulties involved, some of which were revealed at the December Dance, the event so anticipated during November's meeting. The dance was held at a local community center and, due to the center's calendar, could not be held on a Thursday. When I arrived, I found that many of the people from November's meeting simply weren't there. According to Arlene, many of the agencies decided to forego the dance due to the change in time and location. Dancing in a low-lit backroom of the community center—without many of the members and without an audience like the restaurant afforded—I started to understand why one man had mounted so much resistance at the November meeting. The dance was poorly attended and lacked the same enthusiastic energy as the regular monthly meeting.

The conspicuous absence of people with cognitive disabilities from events which were in fact planned around their presence was to be a recurrent fact in my observations at People First. In March of 2010, I attended the annual "micro-conference"; an event initially started by People First to counteract the encroaching dominance of nondisabled professionals at the other state conference, referred to as the "mega-conference." The purpose of the micro-conference was to assert the importance and centrality of self-advocates. Nondisabled professionals, however, had in fact engulfed the attendance and proceedings, leaving the organizers in People First feeling like tokens at their own creation. The last panel, "Self-advocates Speak Up!," was the only panel organized by and for self-advocates; it was meant to rally support and empower members. Only ten people showed up: four self-advocates, three paid advisors of People First, me, and my two children. Sitting around empty tables, the gifts that self-advocates opened did little to cheer the advisors of People First. Likewise, the Roll-a-thon event I helped organize in May 2009 had

roughly fifteen attendees. Four of us were employees or volunteers; the rest were members of our families. Not a single member of People First attended.

Other than Thursday Night Nighttime, I also attended chapter meetings of People First held in a local sheltered workshop. By going to the workshop, Arlene and I averted some of the difficulties of transportation, but the spontaneity and fun that had been so evident at Thursday Night Nighttime, was entirely absent. Staff members did most of the talking; members, many of them nonverbal, generally acquiesced with any of Arlene's suggestions. I began to realize why meeting in public was so crucial: by altering the location, Thursday Night Nighttime helped shift the general pattern of power between members and staff. Changing the venue thus helped shift the staff/client dynamic.

By meeting in public, People First offers a counter-narrative to a discourse of social contract theory that links personhood to a threshold and measurable account of cognitive competence. While not articulated, the activities of People First reach toward an expression and understanding of personhood decoupled from cognitive capacities and instead premised on the ability to be public and an aspiration to a modality of freedom unknown to the kind of Lockean and contractual model of an autonomous and rational person.¹² Rather than cognitive capacity, the personhood that People First claims can be understood through the lens of the dance, humor and alliance. My understanding of these tools emerged through my sustained observations of self-advocacy organizations, events, and meetings. Accordingly, the next section builds on the

¹² My analysis here is informed by the work of Hannah Arendt, most notably her conception of freedom as developed in *The Human Condition*. I take from Arendt's account of freedom an emphasis on spontaneity in the public sphere performed in the presence of others. Arendt makes it possible to decouple freedom from requirements of cognitive capacity, although she did premise much of her account of freedom on the ability of thought and, importantly, speech. Thus, although Arendt's account of freedom has helped shape my analysis and understanding of the self-advocacy movement, her account of freedom does not map neatly onto my own conclusions.

themes evident in People First by connecting them to my observations at the 2010 national biannual conference for SABE, Self Advocates Becoming Empowered.

III. SABE & Personhood: Disrupted, Displaced, and Destabilized

In September 2010, self-advocates and their allies gathered in Kansas City, Missouri for the Self Advocates Becoming Empowered (SABE) four-day national conference. The 2010 conference theme, “Jazz it Up: Celebrating 20 Years of Self-Advocates Becoming Empowered,” commemorated the twenty year anniversaries of the *Americans with Disabilities Act* and the founding of SABE. Originally started by People First, SABE now convenes every two years to elect eighteen new board members representing nine regions in the United States. SABE’s mission, according to the conference guide, “is to ensure that people with developmental disabilities are treated as equals and that they are given the same decisions, choices, rights, responsibilities, and chances to speak up to empower themselves; opportunities to make new friends; and to learn from their mistakes.”

I was skeptical upon arrival in Kansas City: would this conference actually attract people with disabilities and entrust them with political agency? Between 2005 and 2010, I attended multiple conferences and workshops convened around disability rights, organized for professionals, academics, family members of people with disabilities, and advocates. At these events, people with developmental and intellectual disabilities played important but minor roles. While they often provided emotionally charged narratives, documenting harrowing stories of institutional abuse and their own courageous political activism, the actual agendas and panels of conferences were plainly orchestrated and staffed by nondisabled professionals and experts. If

self-advocates offered the best testimony, nondisabled experts clearly controlled when and how that testimony would fit into a larger framework of disability related issues.

My expectations, however, were quickly disproven. Self-advocates swarmed the hotel. For the last ten years, SABE's conference has attracted more self-advocates than any other gathering in the United States. All kinds of disabilities were represented, discernible through various physical signs: power wheelchairs, protective helmets, tremulous limbs, personal attendants, translators, sunglasses hiding blinded eyes. I recognized several self-advocates from prior conferences: the founding president of the Autistic Self Advocacy Network Ari Ne'eman; Victor Robinson from Washington DC's advocacy coalition Project ACTION!; and the former president of SABE Julie Petty. But spotting familiar self-advocacy leaders was only a small part of my enjoyment. More thrilling was watching hundreds of self-advocates infiltrate all parts of the hotel: catching up over coffee in the lobby, overfilling the elevators with wheelchairs, and lounging on couches in hallways.

In mission statements, advocacy objectives and discursive framing, People First and SABE both endorse a conception of personhood heavily tied to cognitive competence. Like other advocacy efforts analyzed in chapter four, self-advocates attack the presumably erroneous charge of cognitive incompetence as a way to gain political membership. By making these claims, self-advocates join Locke's enterprise of exclusion, thus becoming unexpected signatories to the disabled contract. But we can also find ways in which People First and SABE challenge cognitive norms of personhood. In their activities and relationships, self-advocates and allies contest the disabled contract. In this section I highlight three ways that members of People First and SABE challenge contractual models of personhood: political alliance, humor, and dance. Rather than offer a new conception of personhood, these tools disrupt, displace and destabilize

dominant definitions, thus revealing a commitment to personhood without normalizing personhood.

1. Alliance: A Way of Living in the Paradox

Thursday Night Nighttime revealed a wide array of disabled needs as well as a diverse set of people to attend to those needs. By displaying a diversity of disabilities that were in fact not always visible, the attendees destabilized a strict binary between the abled and disabled. Of course, the activities of that evening did not entirely disrupt categorization. Indeed, women staff members were more likely to attend more severely disabled members. While not ideal, People First nevertheless provides a window into imagining an alternative future in which the relationship between nondisabled and disabled is dynamic rather than static. At SABE's conference, dynamic relationships are evident in the ways in which self-advocates and their allies coordinate action and leadership between one another. Attentive to one another others' abilities and impairments, allies and self-advocates constantly shift roles, moving back and forth depending on which person's strength is most necessary in a given situation. In this way, successful action does not depend on a fully autonomous agent with complete idealized capacities, but rather across a range of actors who collectively navigate action and reaction.

At SABE, this dynamic was most apparent between the outgoing president, Chester Finn, and Vicki, an ally who often assisted him. Chester is black and approximately thirty, plays the saxophone, is blind and wears oversized dark sunglasses. Vicki is a middle-aged white woman who has been involved in SABE for years as an ally. With his humor and grace, Chester made the tedious nomination of candidates lively and smooth; he hosted most of the conferences main events which were held in an overcrowded ballroom; he filled in vacancies in seminar sessions when needed; and he acted as a judge during one event's roll-play. Self-advocates voiced their

respect for Vicki because she was supportive but never paternalistic. She managed to be both an assistant and an agent during the conference.

For most of the activities, Chester required assistance, but often in different ways and different degrees. Vicki served in this capacity. Often standing slightly behind Chester and to his left, Vicki's movements fell in step behind Chester's. With her body she seemed to be able to direct Chester in the right direction so he could correctly face a hand raised in the audience or the person approaching the stage. Vicki often whispered in Chester's ear important information and several times they would quietly hold a quick conversation before moving on to a new activity. When Chester called on the audience to articulate their concerns, Vicki roved about the ballroom floor with a microphone, occasionally calling out, "How many more Chester?"

The relationship between Chester and Vicki is unique. More often I have observed nondisabled allies steering action, patrolling the behaviors of people with disabilities, and generally preferring efficient operations rather than true alliance—the latter of which requires attentiveness and deep knowledge of one another (Kittay 1999). Alliance takes time: it takes time to develop careful attentiveness and it requires more procedural time, as negotiating action becomes a part of the procedure. This extra time and displacement of efficiency was evident during Thursday Night Nighttime, as Bobby and Mason slowly made their way through the agenda and a series of staff helped Betty report the treasury amount. On first interpretation, I assumed these awkward maneuverings were aimed primarily to mimic autonomy; as if the coordinated fumbling of the meeting was a ruse of compulsory rationality. But within this larger framework of disruption to the disabled contract, we can see these maneuverings as a way to undercut abled norms of communication.

While Vicki and Chester exemplify successful alliance, it is not error-proof. For example, Chester also coordinated the nominations of officers for a smaller regional delegation. During the final ceremony, Chester and Vicki gave out awards. At one point, Vicki handed Chester a plaque to give one of the awardees. Chester looked down at the plaque: “Thank you for your service...Wait a minute! I can’t read this! I’m blind!” Vicki took the microphone and read instead. At another time, a candidate running for office came to the stage to make a speech: navigating to the front of the room took time in his large motorized wheelchair. Once on the stage, Vicki held the microphone while he very slowly said, “AHHH WIIIII WUHUUU HUUUU.” Vicki mistranslated: “Brian says he would like to be your secretary.” “No he didn’t!” yelled a woman from the audience. “He said he wants to work hard!” Quickly another person ran to the stage to better translate Brian’s speech.

Importantly, although Chester was visibly the person with the disability, the moments in which coordinated action faltered, his disability was not blamed. But neither was the fault entirely Vicki’s, as she coordinated not only her own range of actions, but also intuited the needs and movements of Chester. In this location, filled with all kinds of people with all ranges of abilities with multiple listeners, negotiating action was collaborative, dynamic, and at times, fumbling. Faltering, in this context, did not mean failure. Sometimes it meant more patience, or the need for interpretation, or someone to interject a suggestion. Here, disabled definitely did not mean discarded.

Vicki, Chester and their audience represent dynamic and shifting relationships of interdependency, as they move in and out of different roles dependent on the different skills required. While differently skilled, they are all equally flawed, a consequence of their finite selves. Returning to Thursday Night, we might think about ways that members can better

promote the dynamic movement and displacement of staff, advisors and self-advocates. We can imagine an evening or series of evenings in which members shift roles and exchange obligations as a way to disrupt the strict and opposing categories of the abled and disabled. These dynamic reversals of roles and identities dislodges the disabled contract's dichotomy between persons and subpersons.

2. Humor: A Way of Communicating in the Paradox

Humor is another tool employed by People First and SABE to disrupt compulsory rationality and ableist prejudice. We can see humor working in multiple ways: to counteract prejudice; promote relationships; and trouble the presumed cognitive competence of nondisabled people. At SABE's national conference, humor was often used informally, but it was also a formal aspect of the agenda: the last dinner event was a performance by a disabled comedian whose humor exposed disabling societal barriers. By integrating humor formally into their agenda, self-advocates and their allies displace cultural assumptions that treat the disabled as tragic misfortunes. Especially because people with cognitive disabilities are too often the prey of mean-spirited humor, reclaiming humor is vital to their movement. The laughter of Thursday Night, moreover, allowed a feeling of equality to pervade the evening. Moreover, humor disrupts these many faces of cognitive disability as pitiful, repulsive, or childlike.

Chester Finn often relied on humor. "Why did the self-advocates come to the dinner?" Chester began one evening's events with a joke. "To stuff their faces!" Chester and the crowd laugh. His opening joke says a lot about his humor: he often makes jokes, some funny, some goofy, and a few downright confusing. Upon stepping down from the presidency, he thanks the crowd. "I would just like to thank everyone out there; I enjoyed every minute of it, the names I

was called, the threats I received, but it was worth it.” When Chester helped orchestrate a vote for a state delegation, Vicki counted the hands raised for each candidate. But she failed to look behind her, thus missing one of the hands raised for a candidate. When we realized that some hands had not been counted, the vote was repeated, which was difficult as the candidates had to negotiate their power wheelchairs in and out of the crowded room. When the candidates were leaving for the second time, Chester said, “I just want to point out that it wasn’t me who didn’t see all the hands.”

Chester’s sense of humor conveyed more than just an easy laugh. It was funny because he was both pointing out his own disability, but also the mistakes of more abled others. Normally we would attribute not seeing to the blind man, but in this case, the nondisabled were equally blind, not because of disability, but their failure to look around. In a way, Chester’s sense of humor de-emphasized his own disability and instead pointed to the nondisabled as equally prone to error. Similarly, at another panel, a self-advocate described the condescending tone that the more abled adopt when talking to him. His strategy: the slower they talk the slower he responds. These jabs of humor do not offer an alternative foundation or principle of personhood, but rather destabilize the seeming faultlessness of compulsory rationality.

In addition, humor invites and welcomes the unexpected, which in fact, often accompanies disabled gatherings. For example, at another dinner event at SABE, nondisabled speakers commemorated the life of Eunice Kennedy Shriver and her creation and promotion of the Special Olympics. One speaker used much of his time to show video clips of Shriver, one of which was an interview with Brian Williams. At first, the commemoration of Shriver recalled other keynote panels that I had attended in which nondisabled professionals orchestrate the proceedings while people with cognitive disabilities are used to discuss their firsthand

experience, but are quickly swept from the spotlight. Events took a sharp turn, however, when a woman with a cognitive disability overtook the stage to collect her lost purse, but then grabbed the microphone from the nondisabled speaker. “I just want to say that none of this would be possible without Brian. Without Brian and without NBC we couldn’t have heard Eunice. So watch Brian every night, 6:30 eastern time, on your local NBC affiliate channel.” And just as suddenly as she appeared, she marched off the stage as her ode to the anchorman came to an end. For a moment I did not know what to do. “That was great!” laughed the woman next to me, and I joined with the crowd in the unexpected humor.

In this moment and at Thursday Night, the unexpected was in play, but rather than react with fear or hostility, abled and nondisabled participants handled it with humor. Here the strange and the absurd were not aberrant and unwanted, but rather seized as a way to further disrupt norms associated with compulsory rationality. Humor, like alliance, is not principle of personhood, but rather exposes the ways in which cognitive competence fails to encompass the full range of political tools available to the oppressed. For Locke, freedom is witnessed in the ability of thought to control and coordinate actions, but under the purview of humor, a degree of the unexpected, uncontrolled, and unprepared is necessary for laughter.

3. Dance: A Way of Moving in the Paradox

Dancing occupied central importance during the evening at Thursday Night Nighttime and SABE. At the 2010 national conference of Self Advocates Becoming Empowered, every night ended with a dance. After a day of speeches and panels, tables were moved to the sides of the room and the middle of the floor was filled with bodies dancing and celebrating. People in wheelchairs, women wearing protective helmets, dancing alone and together, disabled and

nondisabled blurred together: SABE's nightly dance broke out of the traditional confines of political activity. Dancing is not peripheral, but rather expresses key aspects of disability rights. Other disability scholars accord similar levels of importance to dancing: describing the ways people dance, whether in wheelchairs, prosthetics or absent limbs (Linton 2007; Garland-Thomson 2007). It is not accidental that disability scholars gravitate towards expressions of dance in their scholarship. Dance accomplishes important tasks for disability rights activists. It reveals the contractual model of personhood and freedom as incomplete; it models alternative modes of connection between persons detached from cognitive competence; and dance expresses an enjoyment of life often assumed impossible for people with disabilities.

Dancing expresses a kind of freedom not well encapsulated by the Lockean and Rawlsian cognitive model. Like speech, it is a form of expression. And like speech, it can be performed alone, with others, or before an audience. But speech takes on a new and more powerful dimension if done before an audience. So too with dance; there are additional dimensions when one dances with others and when one dances in front of an audience. Dancing is also possible with minimal levels of cognition. Before speech can regulate norms of connection, caregivers sway and rock infants to sleep, performing a slow and gentle dance to soothe and comfort tiny babies. Dance is a form of embodied connection in which speech is not yet necessary.

Recalling Locke, his conception of autonomy and personal freedom were strongly attached to norms of rationality and the ability of the person constantly to check their actions by their thoughts; in this way, freedom is expressed by the ability to have all actions conform to one's rational preferences and desires ([1781] 1993). For Locke, impulse negates freedom. By incorporating dance as a pivotal aspect of political mobilization, People First and SABE reveal that the model of freedom and personhood embedded within the disabled contract is merely a

shadow of the full range of expressive actions and modes of connectivity possible. While not articulated, People First and SABE's embrace of dance is a clear critique of the social contract person as not only deficient but dull.

Dancing is also important for disability rights activists because it embodies an expression of a life well lived. Dancing expresses a life worthy of life. It therefore challenges assumptions about the misery and desperation of disabled lives. While self-advocates and allies can and often do express in words the claim that disabled lives are worthwhile, there is a way in which dance accomplishes a level of convincing that words by themselves cannot. Like the other tools of humor and alliance, dancing neither articulates a strategy for inclusion nor grounds the essence of personhood. It is instead a tool of disruption—a momentary suspension of norms and a critique of compulsory rationality.

IV. Conclusion: A Paradox of Personhood

In this chapter I have charted the ways in which self-advocates claim and contest the disabled contract. In mission statements and self-descriptions, they endorse the disabled contract's construction of personhood, thus enforcing a threshold level of rationality and becoming unexpected signatories to the disabled contract. At the same time, however, their activities disrupt the dominance of compulsory rationality and instead point out the inadequacy of Lockean personhood. At once caught in and free from the paradox of personhood, self-advocates straddle the tension between human equality and human difference.

Importantly, this tension is inescapable: the social contract *always* incites the disabled contract. Requirements of cognitive competence are not aberrant, but rather integral to the meaning of social contract theory. In this way, the disabled contract is akin to Carole Patemen's

sexual contract rather than Mills' racial contract. For Mills, the racial contract is conceptually prior to the social contract. This conceptual two-step is vital to the emancipatory potential for Mills: it maintains the social contract as essentially egalitarian by situating the exclusion in a *prior* racial contract. In contrast, Pateman's sexual contract *is* the social contract: the social contract cannot be detached from the kinds of gender inequality it enacts. The conceptual simultaneity of the disabled social contract affects the kinds of claims self-advocates make and the constraints in which they act. Because of liberalism's dominant power in Anglo-American politics, self-advocates operate within a world that accords political standing based on cognitive competence.

While the construction of personhood at the heart of the disabled contract is problematic, it also continues to hold emancipatory promise for self-advocates. The construction of personhood as cognitively competent is not a ruse or trap that self-advocates find themselves unwillingly caught. It is in fact a foundational building block of their movement and integral to their struggle for political voice. Self-advocates demand equal participation in formal planning processes, whether these occur at the individual level—such as individual education plans forged while attending school—or more policy-oriented discussions—such as state level Developmental Disabilities Boards. In order to gain membership to these venues, self-advocates charge that their voices are vital to nondisabled audiences. Moreover, at a more fundamental level, self-advocates recognize that the language of personhood bestows a kind of respect and dignity to their lives too long denied.

At People First events and SABE's national conference, I witnessed self-advocates claiming and advocating for equal access to personhood status. In fact, one of my more uncomfortable moments occurred while I attempted to explain my dissertation project to Arlene.

I explained that, for some political theorists, people with cognitive disabilities aren't fully people, on the grounds that they fail to achieve equal capacities of personhood. Arlene's face was at once shocked and angered. Of course people with cognitive disabilities are people; some just need more support and assistance exercising their rights. Arlene's answer both challenged the disabled contract, but in some ways, signed on to it, as the disabled contract demands a level of competence for inclusion.

Hence the disabled contract is both troubled and seductive. It promises equality while simultaneously forbidding entry to others. Its seduction is not confined to theoretical archives, but rather lived out in the day to day experiences and activities of self-advocates at local and national levels of political action. Rather than overturning the disabled contract, self-advocates and their allies momentarily disrupt and displace its underlying logic, exposing its commitment to competence as an able-minded fantasyland of self-control and self-sovereignty. Humor disrupts the idea that reason is infallible and instead discloses the ways in which all persons—both abled and disabled—are prone to the unexpected. Self-advocates and allies, working together, demonstrate the ways in which we are interdependent on each other. Infusing their relationship with humor and dance also disrupts the idea that disabled lives are only miserable or pitiable. Finally, by integrating dance in their public political activities, self-advocates and allies reveal shortcomings in the contractual model of personhood; that cognitive competence fails to circumscribe the totality of human modes of expression and freedom. In these ways, self-advocates and their allies work to destabilize the foundation of personhood. Self-advocates thus struggle to both claim and contest Locke's disabled contract and its legacy of personhood.

The tensions plaguing the disabled contract effectively work to promote and maintain a paradox of personhood: a set of tensions in which personhood is defined through cognitive

competence while simultaneously declaring the goal of political and human equality despite difference. Here people with cognitive disabilities are denied political and human membership in the same moment that their political and human membership is established. In this chapter, I have described the ways in which self-advocates with cognitive disabilities both reject and reify these tensions. The next and final chapter more fully explores the paradoxes of personhood embedded throughout social contract theory and the self-advocacy movement.

CHAPTER 6

THE DISABLED SOCIAL CONTRACT AND THE PARADOX OF PERSONHOOD

The social contract is resolutely and irrefutably disabled. Like the medical definition of intellectual disability as both congenital and permanent, the social contract was disabled at its origin and it remains disabled in subsequent revivals and permutations.

Understanding the contract as always already disabled provides a history to my teacher's question with which this dissertation began: "Why not think of your brother as having the same rights as a very intelligent ape or your own beloved domesticated dog?" Her question follows logically from a discourse of liberal personhood offered by Locke, revived in Rawls, reenacted in the history of cognitive disability, and even written in the mission statements of current self-advocacy organizations that demand recognition as people within a discourse of personhood that denies their human standing.

Although my story almost always incites shocked dismay in my listeners, it should not be so unbelievable to equate some human beings to dogs within a theory that defines personhood by cognitive capacity. My teacher was merely making the next logical move according to the internal rules of liberal social contract theory. In some ways, it is less her question, and more the astonished alarm that betrays the powerful seduction of the disabled contract. We recurrently conceptualize personhood as defined by cognitive competence, and yet, are repeatedly surprised by accounts of people with cognitive disabilities being degraded to a subhuman existence. This pattern of using personhood to secure human dignity while maintaining exclusion is the defining characteristic of the paradox of personhood embedded at the heart of the disabled social contract.

Paradox has multiple meanings which can either suggest a kind of riddle, puzzle or set of contradictory truths. Wendy Brown uses the language of paradox to describe rights dilemmas for women, and it is her understanding on which I build. Women's struggle for rights is framed within a masculinist discursive context. According to Brown, "Women both require access to the existence of this fictional subject and are systematically excluded from it by the gendered terms of liberalism, thereby making our deployment of rights paradoxical" (2000, 239). By claiming rights, women both claim and contest the meaning of the masculine subject. Brown worries that women's articulation of rights threatens to reify the norms of femininity; but if not sufficiently specified, then rights may only serve to bolster the power of the already privileged.

The struggle to claim personhood for people with cognitive disabilities is similarly fraught with problematic paradoxes. Personhood is in fact defined by a kind of cognitive competence. Cynthia Lewiecki-Wilson describes how the "core self [is] imagined to be located in the mind" (2003, 157). Margaret Price summarizes the problem, arguing that the "very terms used to name persons with mental disabilities have explicitly foreclosed our status as persons" (118). By claiming this identity as persons, people with cognitive disabilities and their allies cement this category of personhood as defined by cognition. They thus claim an identity that explains their oppression.

And yet, there seems little way out of this dilemma as the harm of being denied personhood is the fundamental harm inflicted on people with cognitive disabilities; their failure at full personhood has led to devastating and even fatal public policies aimed primarily to end their existence.

In comparison to the paradoxes of rights for women, we might say that the paradox of personhood is even more inescapable. While rights are definitely the dominant mode of claiming

political power, it is not the only option. But it is difficult to imagine a political discourse for people with cognitive disabilities somehow cut off from personhood. People with cognitive disabilities *are* people and they have built a political movement that demands first and foremost that they are people *first*.

In this last chapter I will review the arguments established in chapters two through five, describing how the disabled contract—in its theoretical, historical and political permutations—intensifies the paradox of personhood within social contract theory and facing people with cognitive disabilities.

I. Paradoxes of Personhood in Social Contract Theory

In chapter two, I established the role of idiocy at the founding of social contract theory and the ways in which Locke's writings enact a disabled contract to deny the political and human standing of the idiot figure. In the *Essay*, Locke's awkward maneuvering to define the difference between Man and Person discloses his own awareness of the paradox of personhood as well as his troubled attempts to resolve it. By grounding personhood in rationality, Locke's idiot is the paradigmatic excluded figure because idiocy is the absence of all thought. However, the threat of unsound minds comes not only from idiots, but also from others: the madman, drunk, child, infant, the unborn, the very old, the lazy, the rich, and even the asleep. In the *Essay* Locke describes human faculties as variable, not only across humans, but throughout the lifecourse and besetting men in every day affairs. Whether intentional or not, Locke's placement of these worries in the *Essay*, rather than the *Treatise*, separates his ontological anxiety from his political concerns. But these issues in fact pervade one another. In the 2nd *Treatise*, Locke bases human

equality on the equality of human faculties which gives all men equal ability to access an understanding of God and thereby come to understand and follow the law of nature.

While many people experience diminished capacities, the idiot is unique insofar as his deficiency is permanent, total, and congenital. Other characters with diminished competence either have the potential to acquire rationality (fetuses, children, savages) or were once rational (madmen, the old) or have rational capacity that is sufficient but still inferior (the poor, women).

By describing Locke's account of personhood as a paradox he could not solve, I do not mean to suggest that idiots' exclusion was somehow an accident or an aspect of his theory that he could never fully reconcile. Under this understanding, we might think that the exclusion of idiocy is somehow an aberration of liberalism. But idiocy does real epistemological work for Locke; its exclusion is essential to social contract theory.

In this way, Locke's treatment of idiots is similar to feminist analysis of Locke's treatment of women. Both the idiot and wife, for Locke, are bodily different from the full masculinist conception of personhood. The idiot's bodily difference leaves him entirely and permanently devoid of thought whereas Locke describes men as naturally abler and stronger than their wives. Both women and idiots are confined to the private realm: idiots as dependents and women to provide the dependency work. Here both idiots and women embody and populate the conditions of the private realm that depoliticize disabled and female lives. We can see that idiots and women have similar characteristics and epistemological duties: both bodily different and thus inferior; both of whom occupy the private realm, which because they inhabit it, becomes defined by their inferiority and privation.

But their private existence does not signify the same meaning. The primary task of women is to divide the public and private realms, securing men's sexual access to women, and

the securing of men's liberty over women (Pateman 1988). But idiots, if similarly private, patrol a different divide. The disabled contract's main purpose is not exclusion of the idiot, but instead the main purpose is to stabilize the human community and thereby limit political claims and the extent of political responsibility. For Locke, idiots are not only confined to the private realm due to their permanent dependency; they maintain a private existence because it is only here (and not always here) that idiots maintain a degree of human status. Under the tutelage of their parents, idiots have a chance to be accorded private human status. By human I refer to what Locke defines as man: the basic biological bodily similarity between mankind. Personhood is distinct and refers to the kinds of rational capacities men develop and the kinds of laws they can be held accountable to. Idiots thus patrol this human and animal divide.

Locke's disabled contract thus instills liberal social contract theory with a mechanism of exclusion: individuals can be legitimately excluded if they are bodily different from other humans and if this bodily difference is lodged in the mind and is both permanent and total. While the idiot is the paradigmatic case, this kind of bodily difference affects others, and so more broadly contests the inclusionary promises of social contract theory. Bodily difference is especially powerful because it is often invisible; it is thus easy to impugn to other individuals.

In chapter three, I explored the ways that John Rawls's revival of social contract theory similarly resurrects the disabled contract. By setting aside disability, Rawls aims to escape from the paradox of personhood. His evasion in *Political Liberalism*, in which he suggests that people with severe disabilities will most likely fall under the purview of virtue rather than justice, fails to interrogate the ways in which the specter of disability has already infused his conception of personhood and the ideal liberal society to which they supposedly strive. In *A Theory of Justice*, Rawls has already suggested that liberal societies may well resort to eugenic policies to rid

themselves of the disabled, whose existence mars the liberal dream of the most talented with the most freedom. Thinking about Rawls—now within the context of chapter four’s genealogical exploration of disability—we see the ways in which the eradication of cognitively disabled lives is not aberrant within liberalism, but rather part of its culmination. Locke’s disabled contract thus continues within Rawls’s revival of social contract theory, but unlike Locke who struggled to define and maintain a stable meaning of personhood, Rawls’s theory seems untroubled by the exclusions it enforces.

Theorists who aim to reclaim social contract theory as a tool of democratic promise, need to pay particular attention to the disabled contract. If theorists remain inattentive to the ways in which the disabled contract undergirds social contract theory, they will certainly reinscribe exclusion. Attentiveness, however, may be insufficient for theorists working within a contractual paradigm, which hinges on consent and the rational capacities of citizens. Revising social contract theory thus remains a fraught and dangerous endeavor.

II. Paradox of Personhood in Self-Advocacy

The paradox of personhood is not isolated to our theories, but rather infiltrates the lives of the abled and disabled. Chapter four shows how the paradox of personhood was further cemented by early experiments with wild children, nineteenth century racial science, twentieth century eugenics, and even rights movements that aimed to claim citizenship on the basis of equal rational capacities. When we see that both kinds of movements—whether driven by the desire to oppress groups or gain political membership—rely on a definition of personhood that privileges rational capacity, we can see how difficult this paradox is to escape. Both a tool of oppression and a method of empowerment, the paradox of personhood is troubled and seductive.

The history of the disability rights movement and the self-advocacy movement itself is similarly troubled by this paradox.

Chapter five thus describes the ways in which self-advocates and their allies are affected by the paradox of personhood: they can neither evade it nor entirely transform it. In fact, both sides of the paradox—the person as rational and the normative commitment to political equality for all people—hold emancipatory promise. Self-advocacy efforts aim to educate members about their rights and responsibilities; they work to empower people with disabilities to voice their own political claims; and they fight to be recognized as cognitively competent in order for people with cognitive disabilities to participate in key areas of their own lives. Claiming cognitive competence is not just some kind of ruse or trap or game that self-advocates find themselves within—as if forced to play a game which they do not even desire to win. Instead, this paradoxical identity of the cognitively capable citizen promises empowerment, especially because it has been an identity to which they have been excluded from as a class. In fact, most people with cognitive disabilities can partake in these kinds of decisions, rational forums, and debate.

Self-advocates recognize the wide and diverse spectrum of disabilities. They cannot enforce a kind of rational personhood as an ideal for all people with cognitive disabilities. At this juncture, self-advocacy activities that aim to express a kind of equal humanity *detached* from rational capacity is a key part to their movement. Incorporating activities of dance, public embodiment, and appearing as conjoined selves rather than fully autonomous—these are actions to destabilize norms of the disabled contract that only permit cognitively competent persons to appear in public and make political demands. With these tools, people with cognitive disabilities stretch the kinds of political claims that people can make in the public realm and similarly push

on the extent to which we understand political claims. In their activities, they remind us that there is more occurring in the public sphere than the rational exchange of claims. Instead public spheres are pervaded by bodies and senses and language and touch. In this space, People First and SABE reach outside traditional confines and strive for a kind of unarticulated and undefined personhood. By refusing to define disability and personhood, they understand the kinds of violence that definitions enact. By privileging cognitive competence and disrupting norms of personhood, advocates straddle both sides of the paradox, claiming and contesting the contract-inspired person.

For self-advocates and allies, the paradox of personhood invites them to rethink the range of advocacy strategies at their disposal. Educating and empowering members is important, but it fails to circumscribe tools of transformation. My analysis offered in chapter five suggests that self-advocates and allies similarly focus on the promotion of public displays of humor, dance, and alliance because of their transformative potential. They displace the complicity of rational personhood as the basis of political respect. Self-advocates and allies also seek a broader range of allies, noting how their political concerns have historically and currently overlap with political movements for racial minorities, immigrants and women. By building these coalitions, self-advocates and allies can demonstrate to other groups the ways in which the paradox of personhood operates across their movements and thus threatens to fracture democratic promises of inclusion and equality. Under these coalitions, the paradox of personhood is not a peripheral problem only experienced by the disabled, but rather becomes a crucial issue for democratic freedoms.

III. Conclusion

This dissertation has thus described the many problematic dimensions and disappearances within social contract theory and its specter of cognitive disability. Locke removes idiots from human membership and the public sphere; Rawls does the same but *also* removes the cognitively disabled epistemologically as if they have no relation to foundational assumptions when in fact they are driving those assumptions; and historically, chapter four shows that the cognitively disabled have been removed through institutions, sterilization, and even eradication. Self-advocacy risks its own evasions as its description of empowerment remains enraptured by a kind of compulsory rationality that threatens to render invisible people with more profound cognitive disabilities. And yet, despite these disappearances, cognitive disability continues to be conjured; constantly reawakened to patrol the boundary between human and nonhuman—thus serving as a border to the political community. This function—peopling a liminal space between human and animal—causes cognitive disability to repeatedly surface across theories, places, and contexts.

But if these are the moments of complicity with compulsory rationality and the disabled contract, there are also moments of transformation. People First, at Thursday Night Nighttime, offers a counter-narrative of representation that is detached from requirements of rationality *and* that moves away from the caregiver representing the needs of dependents. If people in institutions are not able to be in the public sphere, the answer is not to find a nondisabled person to represent them, but to find a way that they can make themselves a part of the public sphere. That's why it's important that People First had a full spectrum of people with disabilities. It didn't matter that some could not talk, or feed themselves, or say their names. At SABE's national conference, when self-advocates call upon the people in institutions who are not present, it is not entirely to say "we represent you" but more aptly, "we have not forgotten you and we

will fight for your right to be here.” We could read their reference to the institutionalized as some kind of move to represent them, or we could understand their repeated evoking as a constant reminder that they cannot speak for everyone: that the structure of societal and political norms and rules renders their movement fractured. And so their mission is to change structures—to dismantle institutions and sheltered workshops. This is a call for transformation: if people are denied the opportunity and ability to move in and out of private and public communities, we should suspect injustice. The contract as a reasoning device sees nothing wrong with the absence of people who cannot reason; but we can see this as an injustice. Insofar as we have not created communities in which all people can be a part, then the promise of the contract remains unfulfilled.

And so what will we do when we encounter the comparison of the cognitively disabled to domesticated dogs, dolphins, or great apes? Surely, this equation is likely to arise again and to continue its circulation. Rather than think of the ways that the cognitively disabled are more like animals than persons, we might instead demand that the question be reframed. What is wrong with our definition of personhood that it can’t incorporate all people? What kind of political foundation that purports equality repeatedly dehumanizes our neighbors, our family members, and, indeed, ourselves? Rather than revise our answers, we might begin by asking a different question.

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