

## *The Capability of Play*

Jeffrey Irving Israel

One reason to say that a society is unjust is if its members are not able to do the sorts of things that are central to any human life. This, anyway, is part of an ethical view called the Capabilities Approach, which stretches all the way back to Aristotle. To accept this view is to have something to say about what *is* central to any human life. According to Martha Nussbaum, a prominent contemporary advocate of the approach along with Amartya Sen, we determine how to talk about what is centrally human by selecting from actual features that we perceive in human lives those that “seem so normatively fundamental that a life without any possibility at all of exercising one of them, at any level, is not a fully human life, a life worthy of human dignity, even if the others are present.”<sup>1</sup>

These features are called “central human capabilities.” Nussbaum offers a list of these central human capabilities as “the philosophical underpinning for an account of core human entitlements that should be respected and implemented by the governments of all nations, as a bare minimum of what respect for human dignity requires.”<sup>2</sup> This means that a just nation will cultivate these capabilities and prepare an environment

---

<sup>1</sup> Martha C. Nussbaum, *Frontiers of Justice: Disability, Nationality, Species Membership* (Cambridge: Harvard University Press, 2006), 181. According to the Aristotelian method, the task is “to isolate a sphere of human experience that figures in more or less any human life, and in which more or less any human being will have to make *some* choices rather than others, and act in *some* way rather than some other. ... Aristotle then asks, what is it to choose and respond well within that sphere? And what is it to choose defectively?” Martha Nussbaum, “Non-Relative Virtues: An Aristotelian Approach,” in *The Quality of Life*, edited by Martha C. Nussbaum and Amartya Sen (Oxford: Clarendon Press, 2002), 245.

<sup>2</sup> Nussbaum, *Frontiers of Justice*, 70.

favorable to their exercise.<sup>3</sup> But it leaves open to each individual the choice of *how* to exercise each capability above the very basic level that is guaranteed.

Though Nussbaum's list has evolved over the years, one capability that has always been on it is the capability of play. This seems appropriate since playing is something that human beings seem to do. In its most recent iteration, the list portrays the capability of play as: "Being able to laugh, to play, to enjoy recreational activities."<sup>4</sup> In what follows, I will try to enrich this portrayal with an expanded account of what it means to play. I will take Nussbaum's advice and proceed by drawing on my "intuitive and discursive" sense of what play entails, in order to imagine the play element in life.<sup>5</sup>

After I have painted my portrait of play I will revisit its role in the Capabilities Approach. I will show that, while the capability of play is intrinsically good for a human being, like the other capabilities, it also contributes to other (extrinsic) goods that we should care about. Then I will argue that with a fuller account of play it is possible to see why certain policies that relate to play are worth supporting. What is more, I will show that this account of play allows us to perceive aspects of human life in new ways that have surprising implications; I will look, in particular, at what we usually describe as "religious identity."

### ***Talking about Play***

Since playing is so ubiquitous an aspect of life, it is not surprising that scholars have tried to talk about it in a broad range of disciplines: psychology, evolutionary

---

<sup>3</sup> This is the sense in which it is a list of "combined capabilities." Martha C. Nussbaum, *Women and Human Development: The Capabilities Approach* (Cambridge: Cambridge University Press, 2001), 85.

<sup>4</sup> Nussbaum, *Frontiers of Justice*, 77.

<sup>5</sup> *Ibid.*, 78.

biology, philosophy, sociology, history, folklore, anthropology, literary theory, just to name a few. As is always the case, each discipline employs its own vocabulary, brings its own questions, and organizes research around its own disciplinary culture with limited ability to integrate the insights of other disciplines. Making matters worse, the way people talk about play (scholars included) has changed over time and varies regionally as a result of the cultural, political, economic and other changes and variations that tend to change and vary the way people talk about anything.

But play is hardly unique in this respect (sex, power, and thought come to mind) and it would seem especially silly to be rendered dumb by something as familiar as play. Nor is it necessary, or a good idea, to distill all of the ways that people have talked about play in order to begin clear analysis of a cleaner concept. After all, the way people want to talk about an aspect of life might indicate something about that aspect of life. Still, as Brian Sutton-Smith has said, “if monkeys do it, it can hardly require all this rhetorical artifice.”<sup>6</sup> Sutton-Smith has already done the painstaking work of sorting most of the ways that people talk about play in his, *The Ambiguity of Play*, and I will refer to it throughout. But in order to avoid getting tripped up in theoretical controversies within and between the many “rhetorics of play,” as Sutton-Smith calls them, it seems best initially to conjure some images of play.

Trying to imagine what play looks like will give us something more tangible to talk about. The following are some examples of what I have in mind when I am talking about play:

A bunch of monkeys are swinging off of the top of a tall tree into water, each doing some distinctive maneuver mid-air, only to splash and run back up the tree to perform something new.

---

<sup>6</sup> Brian Sutton-Smith, *The Ambiguity of Play* (Cambridge: Harvard University Press, 2001), 199.

A grand parade winds through the streets of New Orleans on Mardi Gras amidst a revelrous throng.

Comedian Lenny Bruce is on stage throwing around racist and anti-Semitic epithets to the point of dizzying hilarity, until his initially uncomfortable audience, from mixed backgrounds, breaks out into shared laughter.

A few friends are spread out on a Golf course, each trying to get his or her best score.

A baby cuddles a stuffed animal, only all of the sudden to throw it on the ground, and then crawl over to retrieve it: she then sits contentedly alone manipulating, sometimes cuddling or throwing, sucking or biting it.

These are not meant to be paradigms of play. They undoubtedly say as much about me, and what I want to talk about when I talk about play, as they say about play itself. If they are wildly dissonant with what you would describe as play, then so much the worse for my argument; if you recognize them, even roughly, as possible examples of play, then what follows may be convincing to you. I will assume that the latter is the case. As I proceed to describe play I will draw on various theorists; I cannot, however, explain the relevance of every theorist who has had something interesting to say on the matter. The theories that I do employ are chosen because they help me to describe play as I imagine it (and because they have shaped the way I imagine it). I leave it to you to decide whether or not I have cobbled together a vivid rendering of this sphere of life.

### ***Playing as Activity***

Several important characteristics of play emerge from the above vignettes. First, they are all active. Play seems to be a category of activity and playing is doing that activity. The audience of the Lenny Bruce routine may appear less active than the others, but they can be described as active in at least two ways. First, the audience is interacting

with the comedian: expressing consent, perplexity, disapproval, skepticism, and other messages on their faces; not to mention, they will probably laugh on occasion. Any comic will tell you that audience interaction makes a big difference in a performance.

Second, if they are indeed at play, all of the audience members will be involved in some mental activity however non-responsive they may appear. It is possible, after all, to watch old comedy routines on television or listen to stand-up on CD while sitting still alone in a room. In these instances if the mind is actively at play, then it is making connections and asserting itself creatively by making sense of the material perceived.

Donald Winnicott described this as “creative apperception” and claimed that it is this activity “more than anything else that makes the individual feel that life is worth living.”<sup>7</sup> The activity of play can sometimes look passive, then: daydreaming on a long drive, wandering aimlessly in a park, delighting in the presence – the sights, sounds, smells, and textures – of others.<sup>8</sup>

### ***Playing in Games***

There are many different kinds of activities, so play is not just any activity. It seems to be an activity that is done for its own sake. That is, when a person does a play

---

<sup>7</sup> D. W. Winnicott, *Playing and Reality* (New York: Routledge Classics, 2006), 87. Winnicott was well aware that the way he wanted to talk about creativity in play was shaped by his deep liberal intuitions, *Ibid.*, 88.

<sup>8</sup> Sutton-Smith offers good reasons to consider some forms of play genuinely passive. He refers to the work of Dorothy and Jerome Singer on the connection between play and dreams: “The Singers sum it up in their book *The House of Make-Believe* when they write: ‘What little systematic data we have comparing the waking and sleeping thought streams suggests that if we subtract the on-task logical thought that characterizes waking thought and is infrequent during sleep, we find a continuity in structure and content.’ This commentary makes tenable the view that there is a connection between the passivity and involuntary character of dreams and the passivity and involuntariness of many kinds of play. The active forms of play rise, as it were, from the groundswell of incessant and relatively involuntary mental play.” Sutton-Smith, *The Ambiguity of Play*, 61. He is referring to what he calls “neural fabulation,” which suggests that the brain is always in some sense playing with itself, producing extra material that is not task oriented. I accept that it may be appropriate to call this play. But is the brain not active during neural fabulation? This will take us too far afield for now.

activity she is not trying to produce any state, experience, object, or effect, or achieve any goal other than doing that play activity. Thinking about playing games, like the example of golf above, will make this clearer. Though, it will compel me to refine what I mean by “activity” and account for playing that does not seem to be done “for its own sake.”

In his wonderfully playful book, *The Grasshopper: Games, Life, and Utopia*, Bernard Suits writes, “To play a game is to attempt to achieve a specific state of affairs, using only means permitted by rules, where the rules prohibit use of more efficient in favour of less efficient means, and where the rules are accepted just because they make possible such activity.”<sup>9</sup> In the case of golf: the players attempt to achieve the state of affairs of a ball landing in a hole in the ground, but they agree not to walk up and drop the ball in the hole. They accept the rules of golf (far less efficient than dropping the ball in the hole) so that they can engage in “playing golf” rather than “trying to put a ball in a hole in the ground” (for which practical reason would demand the most efficient means). We know that they accept the rules just in order to be able to play the game because if we provided them with a more efficient means to get the ball in the hole they would not accept (that would ruin the game).

For some games the state of affairs that the player wants to achieve is not a goal that would end the activity (“winning” in most competitive games corresponds to the achievement of a goal that ends the activity of playing that game). Suits suggests the example of rallying in ping pong, where a necessary condition of a good hit is that it keeps the ball in play, allowing the other player an opportunity for a good hit.<sup>10</sup> Suits

---

<sup>9</sup> Bernard Suits, *The Grasshopper: Games, Life and Utopia* (Toronto: Broadview Press, 2005), 54-55. Thanks to Jeff McMahan for alerting me to this book.

<sup>10</sup> The Grasshopper says, “I would define an open game generically as a system of reciprocally enabling moves whose purpose is the continued operation of the system.” *Ibid.*, 124.

calls these “open games.” Again, we know this is done for its own sake because, if the players were offered two machines capable of keeping the ball in play longer than they could, they would not accept.<sup>11</sup>

Suits recognizes that playing in games is only one way of playing. He offers a stipulative definition of play *per se* as any activity done for its own sake. He then separates play from work (activity done for the sake of some external goal, or “instrumental activity”) and ultimately concludes that in a utopia, where no instrumental activity would be necessary, only playing (and specifically playing games) would be worth doing.<sup>12</sup> Since this is what we would do under circumstances where we *don't have to do anything*, it must be the best life for a human being. I think Suits offers an outstanding definition of games, which accounts for a lot of playing. But I do not think his stipulative definition of play is sufficient to characterize play fully.

How does play, as activity done for its own sake, account for our jumping monkeys? It is possible to imagine that they are not playing at all, that they have something like an instrumental goal: to get wet and cool off, or practice their jumping, or exercise their muscles. But why not just walk into the water without expression? And why add the midair theatrics to a rigorous climbing and jumping routine? I can't speak for monkeys. However, there is enough skepticism among scholars about the “use” of play for animals that Sutton-Smith devotes a section to it entitled: “It Is Not Proven That Animal Play Is Adaptive.”<sup>13</sup>

---

<sup>11</sup> Ibid., 125.

<sup>12</sup> Thomas Hurka argues that the admiration of achievement in games reflects a modern intuitive admiration for overcoming difficulty; he says that this makes Suits's ethical account quintessentially modern. See his introduction to *The Grasshopper* and his, “Games and the Good,” *Proceedings of the Aristotelian Society*, Supplementary Volume 80 (2006): 217-235.

<sup>13</sup> Sutton-Smith, *The Ambiguity of Play*, 24-26.

For Suits, playing in games is a kind of intentional action. This means it is bodily movement undertaken deliberately or self-consciously. And the motivation behind the playing is connected to a reason: what else is “its own sake” than a reason *for* doing something? His definition of play (activity done for its own sake) demands that *all players* must have reasons for playing. I am skeptical of attributing reasons too confidently to monkeys and babies. On the other hand, it would be difficult to call any bodily movement “activity” (a period of continuous *action*), rather than just plain “movement” (a body in motion), without some attribution of a guiding consciousness.

The key point here is to separate the claim that an agent is doing an activity from the claim that the agent is doing that activity *for a reason* (or deliberately causing the bodily movement).<sup>14</sup> When I am walking down the street daydreaming on my way to the doctor, I am not deliberately or self-consciously placing one foot in front of the other; but I would deliberately and self-consciously move to the side upon seeing a steaming pile of dog shit. As Harry Frankfurt explains: “The behavior is purposive not because it results from causes of a certain kind, but because it would be affected by certain causes if the accomplishment of its course were to be jeopardized.”<sup>15</sup> In Frankfurt’s terms, this is the sense in which an action can be purposive and attributable to an agent, but not necessarily performed deliberately or self-consciously (that is, intentionally).<sup>16</sup> A recognizable

---

<sup>14</sup> These are controversial questions addressed in a vast philosophical literature about action. I cannot assess all of the relevant views here. See, for starters: Alfred R. Mele, Ed., *The Philosophy of Action* (Oxford: Oxford University Press, 1997).

<sup>15</sup> Harry G. Frankfurt, “The Problem of Action,” in *The Philosophy of Action*, Ed. Alfred R. Mele (Oxford: Oxford University Press, 1997), 48.

<sup>16</sup> Ibid. For Frankfurt, “intentional” refers to “instances of purposive movement in which the guidance is provided by the agent.” Action is “intentional movement.” “Intentional actions,” though, are “actions which are undertaken more or less deliberately or self-consciously.” So, “actions are not necessarily intentional” even though all action is intentional movement. This seems to mean that to be an action there must be a guiding consciousness prepared to intervene on behalf of the purpose behind the movement; to be an intentional action a movement must be performed deliberately or self-consciously (not just passively

purpose may emerge when the agent interrupts the activity: the corrective interruption indicates what purpose has not gone right. Before such an intervention we may posit that there is some kind of purpose to the action, but it is nevertheless indeterminate to our perception. This helps me to say that a person (monkey, baby, etc.) can be doing an activity (i.e., playing) even when no one is in a good position to identify for what reason the activity is being done.

Now I can say, further, that an activity can be non-instrumental, but not necessarily done for its own sake. I agree with Suits that an activity that is just a task to achieve some goal (such that one would gladly accept the achievement of the goal without having to do the task) is never playing. So, playing is always non-instrumental activity. It does not follow, though, that playing is always “for its own sake.” When an animal, human or otherwise, is moving and there is no decisive reason to say that the movement is instrumentally motivated or that it is wholly externally driven (not at all under the guidance of the animal), then it may be an instance of playing, even if we can’t say that it is “for its own sake”.<sup>17</sup> This way, playing is allowed to include both cases of activity undertaken for its own sake (i.e., playing in games) and non-instrumental activity the reason for doing which is left mysterious (monkeys expressively jumping off of trees, babies manipulating blankets, etc.).

---

accepted by the guiding consciousness). It is in this sense that “actions (i.e. intentional movements) may be performed either intentionally or not.” Ibid., 46-47.

<sup>17</sup> Is sneezing playing then? Or, the dilation of the pupil of a person’s eye when light fades? No. Frankfurt explains, “the occurrence of this movement does not mark the performance of an action by the person; his pupils dilate, but he does not dilate them. This is because the course of the movement is not under *his* guidance. The guidance in this case is attributable only to the operation of some mechanism with which he cannot be identified.” Ibid., 46.

### *Ambiguity within the Play Frame*

The problem with my characterization of play so far – non-instrumental activity (that is not necessarily for its own sake) – is that it may include merely inexplicable activities. If an otherwise anonymous subway rider sitting next to me suddenly, for no apparent reason, leaps from his seat, beats me over the head for a minute or so, and then starts running to the next car, I should not necessarily say, “he is playing.” One more characteristic of play must be introduced in order to make it a distinguishable activity: play seems to be non-instrumental activity *framed to evoke ambiguity*.

There is always a line surrounding play that separates it as play from non-play. Of course, what counts as non-play will depend on the way people want to talk about play. Non-play is often: work, serious, instrumental, real, productive, useful, adult, coerced, utilitarian, absolute, etc. Within the frame of play the meaning of all of the activities associated with non-play is reversed, destabilized, mocked, or otherwise rendered ambiguous. When looking into or entering the framed space of play there is an enormous sign that reads: “This is play.”

Gregory Bateson called this sign a “metacommunication.”<sup>18</sup> The metacommunicative frame around play claims: “These actions in which we now engage do not denote what those actions *for which they stand* would denote.”<sup>19</sup> Lenny Bruce is a great example. On stage everyone to Lenny Bruce was a “nigger,” “kike,” “spic,” “mick,” “wap,” or some such. But the stage, the fact that it was a comedy routine, the unspoken agreement of everyone in the room that “This is play,” meant that his use of those words

---

<sup>18</sup> Gregory Bateson, “A Theory of Play and Fantasy,” in *Steps to an Ecology of Mind* (Chicago: University of Chicago Press, 2000), 178.

<sup>19</sup> *Ibid.*, 180. This means that the actions outside of the play frame (y) denote something (z), and while the actions inside the play frame (x) denote (y), paradoxically (x) does not denote (z).

did not denote what that kind of word-usage would denote outside of the play frame. If the ability to play is what allows for people to gain this “meta” distance and perspective on such deeply entrenched and divisive social categories, then it is certainly an important ability. And it is worth noting that many animals are as capable of framing play with metacommunication as we are. An extraordinary example of a giant polar bear playing with a Canadian Eskimo dog has been captured in stunning photographs published in National Geographic.<sup>20</sup> There was tail wagging, grinning, bowing, and nonaggressive facial expression, resulting in what can only be called playing together among two normally antagonistic species.

Now it is possible to interpret the sense in which Mardi Gras in New Orleans is play, or happens within a play frame. Mardi Gras has a history, of course, and the contemporary throngs on Bourbon Street are not participating in the Mardi Gras of Rabelais.<sup>21</sup> Victor Turner has written of modern Mardi Gras celebrations that they often resemble the “cultural debris of some forgotten liminal ritual.”<sup>22</sup> Investigating what he means by this will shed more light on what we’re talking about when we talk about play.

Turner got the term “liminal” from Arnold van Gennep’s 1908 *Rites de Passage*, in which it was used to describe a particular phase in rite of passage rituals in tribal societies.<sup>23</sup> The term described the transitional phase between initial separation and later incorporation into the tribe. During this phase adolescent boys are sometimes allowed to

---

<sup>20</sup> Stuart L. Brown, “Animals at Play,” *National Geographic* 186 (6) 2-35, 1994. Dr. Brown heads The National Institute for Play, which provides a narrated video of these photos on their website: [www.nifplay.org/](http://www.nifplay.org/)

<sup>21</sup> Mikhail Bakhtin, *Rabelais and His World*, Trans. Helene Iswolsky (Bloomington: Indiana University, 1984), 222-227.

<sup>22</sup> Victor Turner, “Liminal to Liminoid, in Play, Flow, and Ritual: An Essay in Comparative Symbolology,” in *From Ritual to Theatre: The Human Seriousness of Play* (New York: PAJ Publications, 1982), 55.

<sup>23</sup> *Ibid.*, 24. See also: Victor Turner, *The Ritual Process: Structure and Anti-Structure* (Chicago: Aldine Transaction, 1995).

transgress the usual rules of the society: stealing, pillaging, and adorning themselves at the tribe's expense.<sup>24</sup> According to Turner, the sequestered adolescents are often compared to ghosts, gods, ancestors, and animals; "They are dead to the social world, but alive to the asocial world;" they exist in the sacred against the profane, in chaos against the cosmos, and in disorder against order.<sup>25</sup> During this phase, "the ritual subjects pass through a period and area of ambiguity, a sort of social limbo which has few (though sometimes these are most crucial) of the attributes of either the preceding or subsequent profane social statuses or cultural states."<sup>26</sup> For Turner, the ambiguity, limbo, separateness, transgression, etc., in this transitional phase can be seen in a range of social phenomena in societies that have not been stamped by the Industrial Revolution; he describes these as "liminal" phenomena.<sup>27</sup> Turner contrasted "liminal" phenomena in tribal societies to "liminoid" phenomena in societies that distinguish between work and leisure (mostly post-industrial societies). Liminoid phenomena are characterized by the participation of self-motivated individuals in a free society governed by reciprocal contractual relationships. Liminal phenomena are obligatory and serve a socially conservative function in hierarchical societies.<sup>28</sup>

Mardi Gras in today's New Orleans is now recognizable, in Turner's terms, as a liminoid phenomenon animating the remains of a liminal ritual. People go to Mardi Gras in New Orleans voluntarily from all over the world. To be sure, this is always a self-

---

<sup>24</sup> Turner, "Liminal to Liminoid, in Play, Flow, and Ritual," 27.

<sup>25</sup> Ibid., 27. In this phase of the ritual process, "reversal underlines to the members of a community that chaos is the alternative to cosmos, so they'd better stick to cosmos, i.e., the traditional order of culture, though they can for a brief while have a whale of a good time being chaotic, in some saturnalian or lupercalian revelry, some charivari, or institutionalized orgy." Ibid., 41.

<sup>26</sup> Ibid., 24.

<sup>27</sup> Ibid., 29.

<sup>28</sup> Turner associates "play" with liminoid phenomena, whereas liminal phenomena exist in a world not yet divided between work "work" and "play." Ibid., 33-36.

selective group of rowdy folks, which is part of what makes it a liminoid phenomenon. In a liminal case “even the normally orderly, meek, and ‘law-abiding’ people would be *obliged* to be disorderly in key rituals, regardless of their temperament and character.”<sup>29</sup> Still, I imagine that participants in Mardi Gras usually transgress norms of everyday life by doing activities that they would not do at a work-meeting or at most restaurants; I imagine that only a minority are fulltime partiers.

What Turner adds to a vivid portrayal of play is the sense in which the play frame can surround large-scale rituals and activities that are not games: festivals, parades, parties, etc. He also suggests that it may be possible to see a play frame around certain places: New Orleans, Las Vegas, Cancun, comedy clubs, strip clubs, dance clubs, bars.<sup>30</sup> A big red velvet rope surrounds these places, from which a sign hangs reading: “This is play.” These are places where actions do not mean what those same actions would mean outside of the play frame.

While Turner’s account of liminoid play in the leisure time (and space) of post-industrial societies helps me to articulate why I wanted to call Mardi Gras an example of play, I am not entirely convinced by his distinction between liminal and liminoid phenomena. The distinction seems to rest on the optional character of liminoid phenomena seen as opportunities for individuality, compared to the obligatory character of liminal phenomena that conserve the normative order. Turner seems to be saying that only free individuals play; when people in non-free societies do rituals in a frame that

---

<sup>29</sup> Ibid., 43.

<sup>30</sup> One scholar that I know of has already used Turner’s sense of liminoid phenomena when describing stand-up comedy: “The genre of stand-up comedy affords female comics the freedom to engage in rhetorically charged social critique cloaked in the trappings of entertainment; in so doing, they are exemplifying the liminoid because, as Turner notes, by virtue of its liminoid nature, entertainment is ‘suffused with freedom.’” Joanne R. Gilbert, *Performing Marginality: Humor, Gender, and Cultural Critique* (Detroit: Wayne State University Press, 2004), 3.

evokes ambiguity they are really doing the *work* of maintaining social cohesion and stability: turning boys into men, making chiefs out of commoners, cooling those hot from war, etc.<sup>31</sup> This puts Turner in the company of many important theorists who have described play as necessarily voluntary.<sup>32</sup>

### ***Indeterminacy in the Space of Play***

I dissent from this popular view in part because I think so much of play is not entered into deliberately or self-consciously for its own sake; the cause or intention behind play is often ambiguous, even mysterious. It is easy to imagine babies *drawn into* the space of play rather than decisively *stepping into* the space of play. The same is true for all sorts of adult play activities: daydreaming, wandering, sexual foreplay, “losing oneself” in the flow of some task.<sup>33</sup> But how to talk about a space where I am neither in control nor out of control?

Winnicott offers helpful language when he describes play as happening in an “intermediate area” between the inner reality of the individual and the outer reality of the external world.<sup>34</sup> In his work with infants and children as a pediatrician and psychoanalyst he observed the slow process of human beings first learning to cope with an external world stubbornly resistant to their wills. As he describes it, the process looks something like this: in the murky beginnings of psychological structuring, the infant

---

<sup>31</sup> Turner specifically invokes Emil Durkheim here. *Ibid.*, 32.

<sup>32</sup> Prominent among them are Johan Huizinga, *Homo Ludens: A Study of the Play Element in Culture* (Boston: The Beacon Press, 1955) and Roger Caillois, *Man, Play, and Games* (Chicago: University of Illinois Press, 2001).

<sup>33</sup> Mihaly Csikszentmihalyi’s sense of “flow” makes the same voluntaristic assumption about play activities made by Turner, Caillois and others. But within flow there does seem to be an important loss of self-consciousness or a “feeling of union with the environment.” Mihaly Csikszentmihalyi, *Flow: The Psychology of Optimal Experience* (New York: Harper Perennial, 1991), 63, 62-66.

<sup>34</sup> Winnicott, *Playing and Reality*, 18.

hungers for the mother's satiating breast, and we imagine that there is a primordial phase where the hunger *and* the satiating breast are *within* the realm of the infant's omnipotence. At this point the breast is a "subjective phenomenon" of the baby.<sup>35</sup>

A "good enough mother," to use Winnicott's language, will begin her relationship to the infant by adapting completely to his needs (which allows the infant to feel omnipotent early on), but, he writes, "as time proceeds she adapts less and less completely, gradually, according to the infant's growing ability to deal with her failure."<sup>36</sup> The *illusion* of the subjective breast that magically fulfills desire gives way to *disillusionment* and the objective breast, the mother, who is real and demands an adaptive response from the baby.<sup>37</sup>

At this point Winnicott sees a common progression among infants that starts with sucking on fists, fingers, and thumbs, and moves to what he describes as an apparent "addiction" to some object: say, a stuffed animal or a tattered old blanket.<sup>38</sup> He calls them "transitional objects": these objects "are not part of the infant's body yet are not fully recognized as belonging to external reality."<sup>39</sup> While we are accustomed to think of human beings as, on the most fundamental level, dwelling in an analytic distinction between "me" and "not-me," Winnicott suggests that there is an equally fundamental third "space" – an "intermediate area" – where the me/not-me divide is blurred and ambiguous.

---

<sup>35</sup> Ibid., 15.

<sup>36</sup> Ibid., 14. "There is no possibility whatever for an infant to proceed from the pleasure principle to the reality principle or towards and beyond primary identification, unless there is a good-enough mother," 13.

<sup>37</sup> Ibid., 15.

<sup>38</sup> Ibid., 1.

<sup>39</sup> Ibid., 3.

This is the space of “transitional phenomena.” It is “an area that is not challenged, because no claim is made on its behalf except that it shall exist as a resting-place for the individual engaged in the perpetual human task of keeping inner and outer reality separate yet interrelated.”<sup>40</sup> Transitional phenomena represent the first moments of what he calls “the use of illusion,” an activity that relates, but preserves the distance between, myself (with my desires) and the external world (with its frustrating not-me-ness). Further, he explains, “there is a direct development from transitional phenomena to playing, and from playing to shared playing, and from this to cultural experiences.”<sup>41</sup>

The vignette offered above of the baby playing with her stuffed animal, on Winnicott’s analysis, now emerges as the foundation of human play. The stuffed animal is neither “from without” (demanding compliance from the baby) nor a hallucination “from within” (brought into being by the intention of the baby).<sup>42</sup> The “illusory experience” of playing with the object is in some sense constructed by the infant, but it is in some sense provided by the external world (associated with the mother). Playing with the transitional object copes with separation from the mother and, at the same time, is a circuitous interaction with the mother.

How then do we get from this kind of playing with the transitional object to so-called “cultural experience”? Winnicott writes, the fate of the transitional object is “to be gradually allowed to be decathected, so that in the course of years it becomes not so much forgotten as relegated to limbo. ...It loses meaning, and this is because the transitional phenomena have become diffused, have become spread out over the whole

---

<sup>40</sup> Ibid.

<sup>41</sup> Ibid., 69.

<sup>42</sup> Ibid., 7.

intermediate territory between ‘inner psychic reality’ and ‘the external world as perceived by two persons in common’, that is to say, over the whole cultural field.”<sup>43</sup>

He continues, “I am therefore studying the substance of *illusion*, that which is allowed to the infant, and which in adult life is inherent in art and religion... We can share a respect for *illusory experience*, and if we wish we may collect together and form a group on the basis of our illusory experiences. This is a natural root of grouping among human beings.”<sup>44</sup> The infant slowly withdraws her feelings from the stuffed animal or the blanket and begins to play with songs, or string, or organized games, or *stories*. As the child develops, what she finds to play with – but also *founds by playing with* – is part of a third-space of “illusions” that she can now share with an entire group of others.<sup>45</sup> The shared illusion of the older child, and finally of the adult, allows circuitous interaction between the individual and the group in the same way that the shared illusion of the infant allowed circuitous interaction between her and the mother.<sup>46</sup>

### ***Winnicott’s Morality of Play***

Winnicott’s account vividly portrays the indeterminacy of the space of play, the sense in which it is neither governed by the baby nor the mother. But he also asserts that there is much at stake: the acknowledgment of others as full subjects beyond my narcissistic fantasies depends on play;<sup>47</sup> my ability to identify with a group and with

---

<sup>43</sup> Ibid.

<sup>44</sup> Ibid., 3-4.

<sup>45</sup> Stanley Cavell uses the language of “finding as founding” in his discussion of Emerson’s role as an American philosopher. The possibilities of comparison are tantalizing, but I cannot elaborate on them here. Stanley Cavell, *This New Yet Unapproachable America: Lectures After Emerson After Wittgenstein* (Albuquerque: Living Batch Press, 1989), 77-121.

<sup>46</sup> It is important that “illusion” here does not suggest “not real;” it signals that the question of reality should be bracketed.

<sup>47</sup> Winnicott, *Playing and Reality*, 88-89.

humanity as a whole depends on play;<sup>48</sup> as indicated above, my development as a healthy individual outside of the play space depends on creative apperception in play.<sup>49</sup>

It is because there is so much at stake in play that it seems worth heeding what Winnicott expresses as a kind of moral norm of deference to the play of others: “*Of the transitional object it can be said that it is a matter of agreement between us and the baby that we will never ask the question: ‘Did you conceive of this or was it presented to you from without?’ The important point is that no decision on this point is expected. The question is not to be formulated.*”<sup>50</sup>

Too voluntaristic an interpretation of play risks actually shutting down play by resolving its essential ambiguity. It is to say to the baby, “you created this tattered old blanket as a meaningful object, *you founded it*, and it is meaningless without you, so I can just throw it in the trash before your very eyes.” That is a horrifying prospect. No less horrifying is the prospect of saying about objects and activities associated with art and religion (which are sites of play for Winnicott), “this is just your illusion, it is created by you, meaningful to you, just for your own private reasons, let me destroy it before your very eyes.” Equally horrifying is to resolve the ambiguity on the other side: to demand that the baby complies with our expectations of how the blanket should be treated or to expect people to subjugate themselves to their illusions. Accepting Winnicott’s morality of play means that at play “a paradox is involved which needs to be accepted, tolerated, and not resolved.”<sup>51</sup>

---

<sup>48</sup> Ibid., 134-135.

<sup>49</sup> Interestingly, both Winnicott and Turner associate the space of play with transition, creativity, and community.

<sup>50</sup> Ibid., 17, see also 119.

<sup>51</sup> Ibid., 71.

With Winnicott's corrective it is possible to say that some contemporary play, which Turner might describe as liminoid, is best not differentiated by its alleged voluntary basis. People may be compelled to have 21<sup>st</sup> birthday bashes or bachelor parties in ways that belie any suggestion that they have chosen to do so for their own personal and independent reasons. And the social conservatism that Turner sees in the liminal is also plausibly part of these contemporary phenomena: "What happens in Vegas stays in Vegas" may be interpreted to mean that what happens there will serve, and not be allowed to penetrate or interrupt, the everyday norms beyond its confines.

Consider another kind of case. I grew up always eating only matzah and other specified foods during the Jewish festival of Passover. It was just something we did in my family. It was not justified by a robust theology. Its meaning has varied for me over the years: sometimes it connects me deeply to the history of the Jewish people, sometimes I associate it closely with ethical ideals about what it means to be a "stranger" or "in exile" (themes associated with Passover), sometimes it is theologically interesting, sometimes it is unremarkable and perfunctory, and sometimes it is a complete pain in the ass. At a certain point, though, my lack of any good reason for continuing this activity became conspicuous. But I do not want to say: "this is just something that I have invested with importance early in my life, and now that I have no good reason to do it, I should stop." However, I also cannot *believe* the claims implicit in the act: that I am obliged, for instance, to comply with some divine order to eat crackers in springtime. To say that I will continue to do it "for its own sake" begs the question at best, and asserts a "reason" in bad faith at worst. It seems appropriate just to let myself play it out, to let myself

proceed as some kind of “godless Jew.”<sup>52</sup> In Winnicott’s words, it seems best to allow that no decision on this point is expected.

Others, likewise, should let me play this out. To demand that I give a reason for my action, or to demand that I comply with its implicit logic of divine command, would breach Winnicott’s morality of play. What emerges is the idea of the space of play as a protected space, a space where we agree not to decide who or what motivates the activity, or what it means (though, playing with its meaning may be an exciting part of this sort of play). If play is in some sense free or voluntary, it is in the sense that the consciousness guiding the activity in play is free to call a “time out” or dissolve the play frame. When Passover comes I find myself eating matzah. My choice is not whether or not to eat matzah; it is whether or not to interrupt the activity, to dissolve the frame that separates it from the rest of my life and then subject my eating matzah to rational, serious, utilitarian – “non-play” scrutiny.<sup>53</sup>

### ***Play as Political***

I have described play as non-instrumental activity framed to evoke ambiguity (which is not necessarily done for its own sake or motivated by any other determinable reason or cause). This description, though, does not aspire to be a definition of play.

Trying to say the last word on play may be a fun way to play, but it is not a realistic or

---

<sup>52</sup> Sigmund Freud once used this interesting self-description in a letter to a friend: “Quite by the way, how comes it that none of the godly ever devised psychoanalysis and that one had to wait for a completely godless Jew.” Quoted in Yosef Hayim Yerushalmi, *Freud’s Moses: Judaism Terminable and Interminable* (New Haven: Yale University Press, 1991), 8. Yerushalmi’s depiction of Freud’s “interminable” Jewishness is connected to my sense of playful Jewishness, and playful identity generally. I hope to pursue this connection in a future work. For now, see “The Perception of Play” below.

<sup>53</sup> Another way of describing what happens when the play frame is dissolved might be, “What has become an It is then taken as an It, experienced and used as an It, employed along with other things for the project of finding one’s way in the world, and eventually for the project of ‘conquering’ the world.” Martin Buber, *I and Thou* (New York: Charles Scribner’s Sons, 1970), 91.

worthwhile instrumental goal to pursue. It may seem like there are already some obvious omissions from my account. I have not said that play is fun or pleasurable or relaxing or frivolous. These adjectives certainly reflect a prominent contemporary discourse on play and prevalent intuitions about the sphere of life that the term is meant to describe. With my description it is possible to see why horror movies, roller-coasters, and high stakes poker, can fit into a play frame even though they can be frightening, nauseating, and dangerous. I have also hinted at the possibility of describing what is usually called “religious” activity, as instead a kind of play. The association of play with frivolity is unfortunate if it describes such activities well. But it does not seem necessary to describe playing as non-serious: when people are lost in intense game play, for instance, they are not at all blasé about their activity; they are very serious about what they are doing.

Fortunately, the Capabilities Approach is constructed precisely to avoid controversial claims about the meaning or worth of exercising any particular capability in any particular way. This is indicated by Nussbaum’s claim that the list of capabilities is presented as the “source of *political* principles for a liberal society” [my emphasis].<sup>54</sup> She is using the term “political” in the sense that John Rawls uses this term in *Political Liberalism*. This means that the list should be endorsable without recourse to a particular metaphysical or religious justification. The list should be “freestanding”: it is “not presented as derived from, or as part of, any comprehensive doctrine.”<sup>55</sup> It is important to clarify this claim and how it sustains a commitment to the capability of play amidst the diversity of intuitions, discourses, and theories that want to define play. Later I will

---

<sup>54</sup> Nussbaum, *Frontiers of Justice*, p. 70.

<sup>55</sup> John Rawls, *Political Liberalism* (New York: Columbia University Press, 1996), p. xliv.

suggest that the ability to play might do important work to support the whole list of capabilities as political – that is, freestanding – principles for a liberal society.

Offering the list as freestanding means that it is worked out for application only to the “basic structure” of a society; it is meant, then, to apply to the social, political, and economic institutions that deal with essential entitlements and other fundamental issues of justice.<sup>56</sup> When questions or conflicts arise related to the basic structure, a freestanding political conception provides a “shared point of view” from which citizens can adjudicate their claims.<sup>57</sup> And when they adjudicate from this perspective they are bound by the ideal of “public reason” to justify their claims with reasons that other citizens, who are presumably reasonable, can reasonably be assumed to be able to accept.<sup>58</sup> Beyond the basic structure, in the “background culture,” citizens are free to make claims and use reasons that only people with their own metaphysical or religious assumptions would be able to accept.

The Capabilities Approach should insist, for instance, that any claim of injustice with recourse to the capability of play (which is itself presented in accordance with public reason) must be made using public reason. For example, if a government were to force citizens to spend all of their waking hours, when they are not working in the private sector, in military or other social service, a claim of injustice could be made on the basis of play. In this case the use of public reason will be fairly easy, given that *no play* is allowed in this society. The argument will be for an environment that makes play

---

<sup>56</sup> Rawls, *Political Liberalism*, p. 11.

<sup>57</sup> Rawls, *Political Liberalism*, p. 35.

<sup>58</sup> According to the ideal of public reason “citizens are to conduct their public political discussions of constitutional essentials and matters of basic justice within the framework of what each sincerely regards as a reasonable political conception of justice, a conception that expresses political values that others as free and equal also might reasonably be expected reasonably to endorse,” Rawls, *Political Liberalism*, p. L.

possible at all. But in other cases, a particular kind of play may be threatened. In these cases the use of public reason means that citizens should not make their case in terms of the intrinsic value of skiing, Mardi Gras festivities, theater, getting blind drunk on Purim, or whatever particular form of play is threatened.

Imagine a case in which a government has appropriated all non-residential land to use for infrastructure, military bases, administrative buildings, or whatever, making golfing, hiking, May Day festivals, long walks on the beach, Civil War reenactment, and many other popular forms of play impossible. Claiming this as unjust on the basis of the capability of play will require identifying these as important forms of play and showing that at least some of the government appropriated land is necessary to make doing these activities (and others like them) possible.<sup>59</sup> Using public reason means finding a way to justify the importance of accessible beaches to people who will never play on the beach and have no personal reasons at hand for caring about playing on the beach.

One way to do this is to use a description of play that can be endorsed by most citizens regardless of how they play and what comprehensive views they might have about play. My description of play as non-instrumental activity framed to evoke ambiguity is meant to be a first try at such an account. Protecting spaces of play on this basis is similar to protecting important places where citizens assemble on the basis of the capability of affiliation.<sup>60</sup> Since affiliation is a central human capability, most citizens will have a strong reason to protect the right of assembly, even if they assemble in different ways and for different reasons. The use of public reason entails both describing affiliation in a way that can pick out the relevant cases, and justifying any particular

---

<sup>59</sup> Play activities can still be regulated, of course. Just like any other activities. A political decision may be made, for instance, to limit certain kinds of outdoor play in order to protect the natural environment.

<sup>60</sup> Nussbaum, *Frontiers of Justice*, 77.

claim for the capability of affiliation using only those reasons which citizens with diverse ways of affiliating can be presumed to share.

Of course, on my description, play is either “for its own sake” or intentionally indeterminate. It is, therefore, already necessary that any argument on behalf of a particular kind of playing will have to use a justification taken from outside of the play frame in which that sort of playing happens; there is a justification to choose a four iron instead of a five iron in golf, but there is no justification for playing golf in golf (other than just *to play golf*).<sup>61</sup>

This makes describing, and arguing for, the capability of play using public reason a kind of quintessential use of public reason: by definition, what makes sense within the play frame makes an entirely different kind of sense – or no sense at all! – outside of the play frame. Remember, the metacommunication “This is play” means “These actions in which we now engage do not denote what those actions *for which they stand* would denote” outside of the play frame. The only way to make arguments about play, that is not itself a form of play, is to use the language and reasons of the non-play world. It is consistent with the Capabilities Approach to suggest that when protecting and promoting the capability of play, the right kind of non-play reasons will be those that conform to the ideal of public reason. In “The Extrinsic Goods of Play,” below, I will argue that political liberalism is itself framed as a metacommunication wearing a sign that reads: “This is political.”

---

<sup>61</sup> If getting blind drunk on the Jewish holiday of Purim is to be interpreted as play, then it too will lack an internal justification. As a *religious* act, getting drunk on Purim will have a religious justification. It may be possible for an activity to be play (and have no internal justification for itself) but to have a religious or instrumental justification from outside of the play frame. See “The Perception of Play” below.

### *Playing and Human Flourishing*

Since it is meant to be freestanding, in the sense just described, the list of capabilities endorses no single account of what human flourishing – human beings at their best – looks like. Instead, it offers the idea of “a space for diverse possibilities of flourishing.”<sup>62</sup> The point, Nussbaum explains, is that the capabilities list “can be agreed by reasonable citizens to be important prerequisites of reasonable conceptions of human flourishing.”<sup>63</sup> The central human capabilities make possible all of the diverse accounts of human flourishing that people are likely to pursue in a liberal society.

While the Capabilities Approach will not pass judgment on what is an admirable exercise of each capability, it does acknowledge that human flourishing will require an opportunity to choose well in each of these areas of life. The assumption is that these activities are the sorts of activities that constitute a human life, and a *good* human life is one in which these activities are done well (though, judgment is not passed on what it means to do them well).<sup>64</sup>

Being able to do each of these activities is intrinsically good for human beings because each is a basic ingredient in a human life. To borrow an analogy from J. L. Ackrill, putting *is* playing golf in the same way that exercising each capability *is* living a human life.<sup>65</sup> Similarly, putting well is necessary but not sufficient to playing golf well in the same way that exercising any one capability well is necessary but not sufficient to living well.

---

<sup>62</sup> Nussbaum, *Frontiers of Justice*, 182.

<sup>63</sup> *Ibid.*

<sup>64</sup> This is the “human function” argument; *Nicomachean Ethics* (NE) 1097b24-1098a20. See: Martha C. Nussbaum, “Aristotle on Human Nature and the Foundations of Ethics,” in *World, Mind, and Ethics: Essays on the Ethical Philosophy of Bernard Williams* (Cambridge: Cambridge University Press), esp. 110-120.

<sup>65</sup> J. L. Ackrill, “Aristotle on *Eudaimonia*,” in A. O. Rorty Ed., *Essays on Aristotle’s Ethics* (Los Angeles: University of California Press, 1980), 19.

Interestingly, play is one of the activities that Aristotle acknowledged as an ingredient in human flourishing long ago.<sup>66</sup> It is worth looking briefly at the way he talked about play in order to see how its role in human flourishing differs once it is incorporated in the Capabilities Approach and perceived as I have described it. When Aristotle talks about the sphere of life that I associate with play he uses the term *paidia*. I will use this term with reference to Aristotle's account and only use "play" when referring to my own account.<sup>67</sup>

There is, then, for Aristotle, a sphere of life in which "we pass our time with some form of amusement [*paidia*];"<sup>68</sup> this, he says, "seem[s] to be necessary in life."<sup>69</sup> In this case, he is referring specifically to activities we would describe as joking-relations: where people play with language together, make each other laugh, share in mirth, and generally delight in each other's company. In this area Aristotle describes virtuous people as having a kind of witty versatility.<sup>70</sup> But they also have a kind of tact<sup>71</sup> which allows them to gauge the nuances of a particular relationship in the way that we associate with someone who is funny or has a great sense of humor.<sup>72</sup> This tact allows a subtle perception of particular situations and relationships that can only result from the cultivation of practical wisdom.<sup>73</sup> It is the same skill that allows friends successfully to console one another.<sup>74</sup>

---

<sup>66</sup> *Nicomachean Ethics* Book IV, Chapter 8 (NE 1128a-1128b9).

<sup>67</sup> Roger Caillois uses *paidia* to describe the first spontaneous impulse to disturbance and tumult that characterizes play before it becomes rule-bound and focused on arbitrary problem solving, as in what he terms *ludus*. Caillois, *Man, Play, and Games*, 27-35.

<sup>68</sup> Aristotle, *Nicomachean Ethics*, Trans. Terence Irwin (Indianapolis: Hackett Publishing Company, Inc., 1999), 65 (NE 1128a1).

<sup>69</sup> Aristotle, *Nicomachean Ethics*, 66 (NE 1128b4). In this same passage he describes relaxation (*anapausis*) also as necessary in life.

<sup>70</sup> They are called *entrapeloi* (NE 1128a10).

<sup>71</sup> *epidexiotes*

<sup>72</sup> NE 1128a18

<sup>73</sup> Nussbaum, *The Fragility of Goodness*, 303.

<sup>74</sup> NE 1171b2-4

While Aristotle specifies the sphere of life where joking-relations take place as one in which we can distinguish between virtuous and non-virtuous action and perception, he does not necessarily see *paidia* in general as intrinsically good. He considers the possibility, but he seems to reject it.<sup>75</sup> He writes “it would be absurd if the end were amusement [*paidia*], and our lifelong efforts and sufferings aimed at amusing [*paizein*] ourselves.”<sup>76</sup> This is contrasted to the presumably better view that we play as a form of relaxation to sustain our serious endeavors.<sup>77</sup> But this argument depends on seeing *paidia* as only a form of relaxation, even though he distinguishes between these two in his passage on joking-relations.

He also writes, “serious work and toil aimed [only] at amusement [*paidia*] appears stupid and excessively childish” and “Besides, we say that things to be taken seriously are better than funny things that provide amusement [*paidia*].”<sup>78</sup> Part of what is going on here is that something excellent or virtuous (*spoudaios*) is something that should be taken seriously (*spoudazein*);<sup>79</sup> the semantic overlap between “virtuous” and “serious” is being exploited to diminish the value of *paidia*. Someone who is not

---

<sup>75</sup> See *NE* 1176b-1177a10.

<sup>76</sup> Aristotle, *Nicomachean Ethics*, Trans. Terence Irwin, 163. (*NE* 1176b29-1177a5).

<sup>77</sup> *NE* 1176b34-36. He also makes this point in the *Politics* (*Pol.*) 1337b33-41. In the *Politics*, *paidia* is generally seen either as rest to benefit work or as integral in the education of children, *Pol.* 1336a21-38.

<sup>78</sup> Mechthild Nagel writes of this last remark, “With this innocuous statement Aristotle initiates the malediction of play in Western Thought.” *Masking the Abject: A Genealogy of Play* (Lanham, Md: Lexington Books, 2002), 1. Nagel claims that Aristotle relegated play to the marginal role of other to serious rationality (and leisure), an imbalance only corrected with Hegel’s initiation of what later becomes a “ludic turn” in Nietzsche. I cannot assess the intellectual historical validity of this claim here. See also Mihai Spariosu, *God of Many Names: Play, Poetry, and Power in Hellenic Thought from Homer to Aristotle* (Durham, NC: Duke University Press, 1991). In modern European intellectual history there is an important story about the concept of “play” that includes Herder, Kant, Schiller, Nietzsche, Heidegger, Gadamer, and Derrida, among others. Unfortunately, I cannot recount that story here; see Mihai Spariosu, *Dionysus Reborn: Play and the Aesthetic Dimension in Modern Philosophical and Scientific Discourse* (Ithica, NY: Cornell University Press, 1989).

<sup>79</sup> Terence Irwin has a helpful note to this effect; Aristotle, *Nicomachean Ethics*, Trans. Terence Irwin, 328.

virtuous, who has not developed a desire for what is virtuous, can find pleasure in *paidia*: a child, a tyrant, a stupid person, or even a slave.<sup>80</sup>

When Aristotle makes his argument for the life of theoretical study as the single best life for human beings in Book X, Chapters 6-8 of the *Nicomachean Ethics*, which contradicts other of his claims about the intrinsic worth of exercising diverse human abilities, he relies heavily on a distinction between *paidia* and leisure [*scholē*].<sup>81</sup> While human flourishing is not to be found in *paidia*, it is to be found in leisure.<sup>82</sup> Leisure has much in common with *paidia*. Both are pleasurable and both seem to be done for their own sake. But *paidia* is ultimately ruled out as an end in itself and, as we have seen, construed as a means of relaxation to benefit endurance in work. If *paidia* is at all associated with leisure, it is in just this sense: that an uncultivated person will use his leisure time for its pursuit. The best person, at least according to the somewhat anomalous Book X, Chapters 6-8, uses leisure time for theoretical study.<sup>83</sup>

The importance of play as a central human capability to be promoted and protected like life, bodily health, emotions, etc., depends on siding with Aristotle when he says that human flourishing entails excellence in multiple characteristically human

---

<sup>80</sup> Here he clearly identifies *paidia* with bodily pleasure; “Besides, anyone at all, even a slave, no less than the best person, might enjoy bodily pleasures” (*NE* 1177a6-10). Aristotle, *Nicomachean Ethics*, Trans. Terence Irwin, 163.

<sup>81</sup> Friedrich Solmsen explains that “Aristotle actually puts play and serious work (or business) on one and the same side, assigning to play the function of relieving the tensions of *ascholia* [non-leisure, business], while on the other side he places *scholē* [leisure], remaining true to his conviction that it is the end and goal; for it is here that we have to look for human excellence and human happiness.” Friedrich Solmsen, “Leisure and Play in Aristotle's Ideal State.” *Rheinisches Museum* 107 (1964), 214.

<sup>82</sup> *NE* 1177b5

<sup>83</sup> In Book VIII of the *Politics* he does entertain the possibility of listening to certain kinds of music as a worthy leisure pursuit for citizens of good character. See: Solmsen, “Leisure and Play in Aristotle's Ideal State,” 219.

activities (such as the play of joking-relations).<sup>84</sup> Siding with Aristotle when he isolates the life of theoretical study as the single best life for human beings will likely doom play to the status of mere amusement or relaxation instrumental to increasing endurance at work.

Imagining play as I have described it, though, makes it possible to see why Aristotle might have wanted to raise theoretical study to such a high status. Theoretical study, on his account, seems not to be all that different from a non-instrumental activity framed to evoke ambiguity. When he justifies the supremacy of theoretical study he does so, in part, on the basis of its evocation of something divine in human beings. I want to say, albeit anachronistically, that the way Aristotle liked to play was in theoretical study and that he circumscribed this activity in a play frame where the ambiguity of what is human and what is divine must be left unresolved. However much he would have resisted calling it *paidia*, in the Capabilities Approach this activity (and the view of human flourishing that supports it) might best be protected and promoted with recourse to the guaranteed capability of play.<sup>85</sup>

### ***The Extrinsic Goods of Play***

The capability of play, then, is not good because it produces good effects; it is good in itself. Nonetheless, it may also produce good effects for a society trying to guarantee the full range of central human capabilities.<sup>86</sup> Many of the capabilities produce

---

<sup>84</sup> For a clear and concise explanation of this troublesome bit of Aristotle interpretation see: Martha C. Nussbaum, *The Fragility of Goodness: Luck and Ethics in Greek Tragedy and Philosophy* (Cambridge: Cambridge University Press, 2001), 373-377.

<sup>85</sup> I am reminded that Turner writes, "Universities, institutes, colleges, etc., are 'liminoid' settings for all kinds of freewheeling, experimental cognitive behavior" Turner, *From Ritual to Theater*, 33.

<sup>86</sup> Something that is intrinsically good may also produce good effects. Do the good effects add to its goodness? This is an interesting question that raises doubts about the contrast between intrinsic value and

such effects. “Bodily health” contributes to the ability to exercise one’s “senses, imagination, and thought;” “emotions” given reasonable opportunity to develop contribute to the ability to engage in all sorts of “affiliation.” Guaranteeing the capabilities of “practical reason” and “affiliation” has particularly important effects on the exercise of all of the other capabilities.<sup>87</sup>

I will briefly explore three contributions that the capability of play might make to the overall project of guaranteeing the full range of human capabilities. They are: first, the ability to play may be the basis of metacommunication, which is arguably what makes adoption of political principles possible; second, the ability to play may make a kind of non-jingoistic solidarity possible; and third, the ability to play may allow for ambivalent interactions between citizens of historically fraught societies that acknowledge *both* the fear, distrust, and resentment ingrained by longstanding antagonisms *and* the shared ethical hopes expressed by mutually endorsed political principles.

In the first case, it is important to note that the adoption of political principles, on Rawls’s account and according to the Capabilities Approach, depends on citizens being willing and able to separate the political (where the ideal of public reason obtains), from the background culture (where all views may be justified by only reasons that their adherents would accept). Rawls assumes that citizens are so willing and able because of “the fact of reasonable pluralism”: in liberal societies people will recognize that a diversity of irreconcilable views is inevitable and will desire a social world where they

---

instrumental value; I cannot address them here. See: Shelly Kagan, “Rethinking Intrinsic Value,” *The Journal of Ethics* 2:277-297, (1998).

<sup>87</sup> On the special role of practical reason and affiliation see: Nussbaum, “Aristotle on Human Nature and the Foundations of Ethics;” Nussbaum, *Women and Human Development*, 82; Nussbaum, *Frontiers of Justice*, 274.

can cooperate with others about the basic structure of society on fair terms (despite their disagreement on matters that go beyond the purview of the basic structure).<sup>88</sup> The diverse views that make up such societies are “reasonable comprehensive doctrines.”<sup>89</sup>

The list of central human capabilities is meant to be attached as a “module” (an essential constituent part) to any reasonable comprehensive doctrine.<sup>90</sup> Once most people have adopted the list into their comprehensive doctrines as a module there is an “overlapping consensus” with the list as its object. Rawls explains this as when “each citizen affirms both a comprehensive doctrine and the focal political conception, somehow related.”<sup>91</sup> Citizens can relate to the political conception in three ways: as integral to their own fully comprehensive liberal doctrine, as integral to their own otherwise fully comprehensive religious or metaphysical doctrine, or they can adopt it directly as a political value amongst an ad hoc set of unsystematic nonpolitical values.<sup>92</sup> According to Rawls, most people will be in this last group.<sup>93</sup>

Most people will neither need nor want to do the intricate theoretical work of integrating the list of capabilities into some fully comprehensive liberal, religious, metaphysical or other kind of doctrine. But this is not what achieving an overlapping consensus depends upon. An overlapping consensus is possible because people can acknowledge a frame around the list of capabilities that separates it as a political value

---

<sup>88</sup> Rawls, *Political Liberalism*, 50.

<sup>89</sup> *Ibid.*, 59.

<sup>90</sup> Nussbaum, *Frontiers of Justice*, 79; Rawls, *Political Liberalism*, 12, 145.

<sup>91</sup> Rawls, *Political Liberalism*, xxi.

<sup>92</sup> *Ibid.*, 145-146.

<sup>93</sup> He writes, “most people's political conceptions are normally only partially comprehensive,” and usually “we do not have anything like a fully comprehensive religious, philosophical, or moral view, much less have we attempted to study the other views that do exist in society, or to work one out for ourselves.” *Ibid.*, 208. I develop this reading of Rawls in, Jeffrey Israel, “The Pluralist Majority in *Political Liberalism*,” (forthcoming).

from other values.<sup>94</sup> This seems to be a form of metacommunication, as it is described by Bateson above. Except, in political liberalism the sign on the frame does not say, “This is play,” it says, “This is political.” What is justified in the political frame is not so justified – or justified in the same way – outside of the political frame (in the background culture); it may not be justified at all. If the ability to play is the core ability that makes other kinds of metacommunication possible, then it has the beneficial effect of ensuring the possibility of an overlapping consensus.<sup>95</sup>

The capability of play may also make a kind of non-jingoistic solidarity possible. Both Turner and Winnicott, whose theories have contributed so much color to my portrait of play, seem to think that playing forges and maintains a feeling of community or intimacy.<sup>96</sup> If citizens are able to play together as a nation, or people are able to play together as a global community, then we might expect the kinds of bonds associated with relational play to emerge. This sometimes happens with sports, but not reliably. I need only invoke the 1936 Summer Olympics in Berlin.

More promising, I think, are national – dare I say global? – play activities that expose shared vulnerability, deflate pretenses, and stimulate collective experiences of childlike wonder. Consider the Statue of Liberty, on which is stamped Emma Lazarus’ poem “The New Colossus.” The poem immediately differentiates the statue from the

---

<sup>94</sup> “In this process I have supposed that the comprehensive doctrines of most people are not fully comprehensive, and this allows scope for the development of an independent allegiance to the political conception that helps to bring about a consensus. This independent allegiance in turn leads people to act with evident intention in accordance with constitutional arrangements, since they have reasonable assurance (based on past experience) that others will also comply. Gradually, as the success of political cooperation continues, citizens gain increasing trust and confidence in one another. This is all we need say in reply to the objection that the idea of overlapping consensus is utopian.” Ibid., 168. More in Jeffrey Israel “The Pluralist Majority in *Political Liberalism*,” (forthcoming).

<sup>95</sup> Bateson seems to claim that play *is* the basis for other kinds of metacommunication. Bateson, “A Theory of Play and Fantasy,” 180.

<sup>96</sup> Turner talks about “communitas,” in “Liminal to Liminoid, in Play, Flow, and Ritual,” 45-52; Winnicott talks about sharing “illusory experience” and “cultural experience” as the basis of human groupings in *Playing and Reality*, 3-4, 128-139.

Colossus of Rhodes, that “brazen giant of Greek fame, With conquering limbs astride from land to land.” Rather than assert the masculine strength of a nation of warriors, she reaches out to the wretched of the earth: “Give me your tired, your poor, Your huddled masses yearning to breathe free, The wretched refuse of your teeming shore. Send these, the homeless, tempest-tost to me, I lift my lamp beside the golden door!”

This is not a policy statement or a law. These are not instrumental words. They are evocative. Meditating on them I am drawn into an ambiguous space where I identify with those wretched of the earth who were *my* descendents longing to breathe free, and I am drawn into the desperation and fear of the huddled masses still eager to claim the American promise of liberty. These words can be read as a public invitation to play with what separates and unites us as a nation of immigrants – all of us sprouting from some vulnerable huddled mass.

But also think of Stephen Colbert’s hilarious roast of President George W. Bush at the 2006 White House Correspondents Association dinner; the long reign of presidential arrogance that left much of the nation full of anxiety and anger was deflated in a delicious moment of comedy. Or, think of the collective amazement that comes with a great public fire-works display on July 4<sup>th</sup>. All of these happen in a public space of play. Their association with building shared political emotions is indicated by the sense in which we want to say, “these things are good for the morale of the nation.” Such activities will not, of course, immunize a nation from acting immorally. But shared feelings of vulnerability, ambivalence about our leaders, and awe are shared feelings very

different from the jingoistic emotions that often rally a nation together – very different from the jingoism that Emma Lazarus called, “the storied pomp” of ancient lands.<sup>97</sup>

A related contribution of play is to civility in societies divided by long histories of antagonism, oppression, and violence.<sup>98</sup> In these “fraught societies,” citizens characteristically fear, distrust, and resent their neighbors. It is often assumed that under such circumstances citizens will either suppress their emotions in favor of rational norms of moral discourse, or be so determined by them that only a hands-off attitude of deference is appropriate when relating to others.<sup>99</sup> The ability to play makes an alternative form of interaction possible: the kind of metacommunication modeled by Lenny Bruce.

Lenny Bruce did not deliver sanctimonious lectures about tolerance, nor did he capitulate to the hateful discourse of his time and concede an intransigently divided society. He invited his audience into a space of play where the raw emotions and prejudices of the 1950’s and 1960’s were ridiculed, but also acknowledged. Comedy routines, but joking with others in everyday life no less, can be interactions framed simultaneously to undermine the social conceptions that divide us (racial, ethnic, religious, etc.) *and* the social conceptions that unite us (citizen, nation, humanity, etc.). Offering or accepting an invitation to interact in this way acknowledges an overlapping interest in some kind of civic friendship, without underestimating the deep ambivalence

---

<sup>97</sup> See my account of “Down-to-Earth Patriotism” in Martha Nussbaum and Jeffrey Israel, *Loving the Nation: Toward a New Patriotism* (forthcoming).

<sup>98</sup> I describe civility as the virtue of communicating acknowledgment of shared ethical ideals in interactions between citizens; on the communicative function of civility see: Cheshire Calhoun, “The Virtue of Civility,” *Philosophy and Public Affairs*, Vol. 29, No. 3 (Summer, 2000).

<sup>99</sup> An example of the former assumption is Jürgen Habermas, *The Inclusion of the Other: Studies in Political Theory*, (Cambridge: The MIT Press, 1998); an example of the latter assumption is Charles Taylor, “The Politics of Recognition,” in *Multiculturalism*, Edited and Introduced by Amy Gutmann, (Princeton: Princeton University Press, 1994), 25-73.

that will characterize any such friendship in a fraught society. This ambivalent civility, with its intimations of civic friendship amidst fear, distrust, and resentment, is only possible for people who can play.<sup>100</sup>

### ***Play and Policy***

With the capability of play it is also possible to see why certain policies that relate to play are worth supporting. The protection of wildlife reserves, hiking trails, and beaches might be justified by claiming, among other things, that these are places where many people want to play. Likewise for the support of music, theater, sports, and other play opportunities in public schools and venues. Play has long been advocated as an essential aspect of early childhood development; with play fixed among the central human capabilities this advocacy is all the more justifiable.<sup>101</sup>

But with play understood as a sophisticated form of metacommunication for adults and children alike, it may be worth considering a place for dialogical play in more advanced classrooms.<sup>102</sup> It is common to think that students in secondary school might learn to play a sport or a musical instrument that they will play for the rest of their lives; this may also be an important time to give students the opportunity to play with ideas, identity, and possible worlds for the rest of their lives.

---

<sup>100</sup> See: Jeffrey Israel, *Jewish Humor and Political Civility: On Moral Play with Tradition, Self, and Others*, (Dissertation nearing completion – *kayn aynhoreh!*).

<sup>101</sup> Some significant efforts along these lines are: The National Institute for Play, headed by Dr. Stuart Brown. There is also the Strong National Museum of Play and the Association for Play Therapy. There was a great three-part PBS special called “The Promise of Play.” A story about play in educational philosophy deserves attention here that would include Johann Heinrich Pestalozzi, Friedrich Froebel, John Dewey, George Herbert Meade, and many others. I hope to revisit this in another essay. It is also worth noting that in many places around the world girls are left out of opportunities to play altogether and are trapped in lives of domestic service as soon as they are able; this denial of play deserves vigorous opposition, see: Nussbaum, *Women and Human Development*, 90-91.

<sup>102</sup> See: Andrew Metcalfe and Ann Game, “Significance and Dialogue in Learning and Teaching,” *Educational Theory*, 58:3 (2008), 343-356. Thanks to Howard Berkowitz for alerting me to this article.

It is hard to know how positively to ensure that people are capable of play. Another way to think about this is to ask: who can't play? It seems unlikely that people with certain mental illnesses or people who have endured severe psychological trauma will be able to play. If part of mental health is being able to play, then the services necessary to bring a person up to the threshold level of health where they are able to play must be guaranteed. The capability of play, then, offers a clear justification for the government provision of robust mental health services.

Construing play as non-instrumental activity framed to evoke ambiguity, as I have proposed, suggests a few other considerations. A person who can only think and act instrumentally cannot play. In a related way, an extreme narcissist, who accepts no resistance against his subjective consumption of the world, cannot play. A person who is utterly deferential and compliant with respect to authority and the external world cannot play. One incapable of activity cannot play. A social environment that suppresses, squelches, resists, or otherwise tries to resolve ambiguity is not one where play is likely. Whenever the state actively cultivates these characteristics it fails to guarantee the capability of play.<sup>103</sup>

Finally, since playing seems to be something that non-human animals do as well, the capability of play should also be guaranteed for them when they are in our care. Nussbaum has already specified that this calls for “protection of adequate space, light, and sensory stimulation in living spaces, and, above all, the presence of other species members.”<sup>104</sup>

---

<sup>103</sup> It is not clear, though, that the state can intervene when these characteristics are cultivated in the background culture, if the state has done everything else it can do to make the exercise of play possible.

<sup>104</sup> Nussbaum, *Frontiers of Justice*, 400.

### ***The Perception of Play: The Case of Religious Identity***

The policy ramifications of each capability are ultimately for citizens to decide. The Capabilities Approach is only the philosophical basis for the entitlements guaranteed in actual laws and policies. Each capability is described in a general way so that it can allow diverse interpretations. For example, the right of assembly is only one way of guaranteeing the capability of affiliation. There are innumerable policy options for guaranteeing the capability of bodily health; the capabilities approach only serves to focus critical attention on whether or not laws and policies actually give people a real opportunity to act in each sphere of life at the basic capability threshold.

Sometimes the categories used in laws and policies do not correspond in an obvious way to any particular capability. An interpretive opportunity then arises: how should we perceive the specified entitlement in terms of the list of capabilities? I will briefly explore the idea that the target of religious freedom – the area of life that it seeks to protect – is best perceived as the area of play. And if this is the case, I claim that the category of “religion” itself, when used by the state, promotes and even enforces “religious identity” where a more ambiguous mode of life could otherwise flourish.

This is wholly impractical, of course. Religion seems, at this point, so natural a category and is the basis of so much self-perception and perception of others that we are probably stuck with it.<sup>105</sup> But this has not always been the case. The category of religion,

---

<sup>105</sup> For a more practical approach, deferring to the category of religion as it is commonly used in the law (particularly in the U.S. and India), Nussbaum has offered convincing support for the intrinsic value of religious capabilities in Nussbaum, *Women and Human Development*, 167-240. See also: Martha C. Nussbaum, *Liberty of Conscience: In Defense of America's Tradition of Religious Equality* (New York: Basic Books, 2008).

like that of race, has had a complex history and has always been as normative as it has been descriptive.<sup>106</sup>

Whenever anyone has said, “this is religion,” or “this is the class of things that we protect when we protect religious freedom,” they usually mean to differentiate modes of life that we should take seriously from those that we should not. Such differentiation always betrays troubling biases. In his account of religion, Immanuel Kant notoriously explained, “Strictly speaking Judaism is not a religion at all.”<sup>107</sup> In American history, Catholics, Mormons, Jehovah’s Witnesses, and others have been left out of the protective category of religion. Modes of life that scholars have struggled to call “animism” or “primitive religion” or “indigenous religion,” have never really been taken seriously.

By wanting to talk about what normally falls under the category of religion in terms of play it may seem like I want to solve this problem by taking none of this aspect of life seriously. This is just because there is such a close association between play and frivolity in contemporary discourse. But if play is non-instrumental activity framed to evoke ambiguity, then it is not at all necessarily unserious. The more important distinction will have to do with instrumentality: instrumental thought or activity in pursuit of salvation, redemption, enlightenment, world peace, or anything else is not play. These

---

<sup>106</sup> There is plenty to read on the social construction of the category of religion: Talal Asad, *Genealogies of Religion: Discipline and Reasons of Power in Christianity and Islam* (Baltimore: The Johns Hopkins University Press, 1993); Robert Ford Company, “On the Very Idea of Religions (in the Modern West and in Early Medieval China,” *History of Religions*. 42/4 (May 2003); Daniel Dubuisson, *The Western Construction of Religion: Myths, Knowledge, and Ideology*, Translated by William Sayers (Baltimore: Johns Hopkins University Press, 2003); Tomoko Masuzawa, *The Invention of World Religions* (Chicago: The University of Chicago Press, 2005); Daniel L. Pals, “Is Religion a Sui Generis Category?” *Journal of the American Academy of Religion*, 55/2 (Summer, 1987); Jonathan Z. Smith, *Relating Religion: Essays in the Study of Religion* (Chicago: The University of Chicago Press, 2004).

<sup>107</sup> Immanuel Kant, *Religion within the Boundaries of Mere Reason*, Translated by Allen Wood and George Di Giovanni (Cambridge: Cambridge University Press, 2003), 130.

sorts of thought and activity are part of the comprehensive doctrines that the list of capabilities, as freestanding, is meant to respect.

Some activity that we usually call religious, though, does seem well perceived as play. For instance, my eating matzah on Passover as described above. An even better example is the Passover Seder, where Jews gather to tell the story of the exodus in an ordered feast and say: “In every generation let each man look on himself as if *he* came forth out of Egypt ... It was not only our fathers that the Holy One, blessed be he, redeemed, but us as well did he redeem along with them.”<sup>108</sup> The Seder draws its participants into an atemporal identity with the ancient Hebrews in the story; it frames a space of ambiguity that may or may not produce instrumental theological extrapolation. It certainly does not for me. Participating in the Seder is one of the ways that I play, and the Seder seems to offer itself to me as an opportunity to play.

Like me, many people find that their identities are fluid, ambiguous, incoherent, unrationalized and perpetuated in activity that we can now describe as play. They call themselves “secular Jews,” “cultural Muslims,” “lapsed Catholics,” and the like. The nuances of these identities are lost, and the space of play is grievously invaded, when these people are described, or compelled to describe themselves, as “religious,” “irreligious,” or “anti-religious.” It is the category of religion itself, lent prestige by being embedded in the laws and policies of states and international norms, which produces the self-fulfilling prophecy of societies divided among “religious,” “irreligious,” and “anti-

---

<sup>108</sup> Nahum N. Glatzer, Editor, *The Schocken Passover Haggadah* (New York: Schocken Books, 1981), 59.

religious” citizens.<sup>109</sup> And these appellations have proven dangerously easy for ideologues (self-interested advocates of instrumental worldviews) to manipulate.

Perceived through the lens of play, many of those who chafe uncomfortably when compelled to explain themselves in terms of a “religious identity,” would be left to practice freely their fluid, subtle, very personal, and idiosyncratic modes of life.<sup>110</sup> What is more, Winnicott’s morality of play demands that we not force anyone to decide whether or not her play is a result of mere projection or of something found in the external world. If we protect the space of play we refuse to ask people to define and defend their identities. That means they are free to persist in ambiguity, decide strongly on behalf of deference to external authority, or on behalf of subjective triumphalist individualism.

As with any play, the play that is associated with religion can always be described in instrumental terms outside of the play frame. The category of “religion” may even be just one such attempt to describe certain kinds of play in instrumental terms. I am suggesting that, were people free from the demand to articulate their activities in terms of the category of religion, there would be more diverse opportunities for flourishing (full functioning above the threshold level of capability) in the play area of life. And I wonder

---

<sup>109</sup> This effect is visible in many cases. For a sample: in the case of Buddhism see Ananda Abeysekara, *Colors of the Robe: Religion, Identity, and Difference* (Columbia: University of South Carolina Press, 2002); in the case of Islam see Olivier Roy, *Globalized Religion: The Search for the New Ummah* (New York: Columbia University Press, 2004); in the case of Hinduism see Peter van der Veer, *Religious Nationalism: Hindus and Muslims in India* (Berkeley: University of California Press, 1994).

<sup>110</sup> Trying to return Jews to an existentially Jewish mode of life, Franz Rosenzweig memorably chafed under the category of religion: “Does not this mean the revival of that old song, already played to death a hundred years ago, about Judaism as a ‘religion,’ as a ‘creed,’ the old expedient of a century that tried to analyze the unity of the Jewish individual tidily into a ‘religion’ for several hundred rabbis and a ‘creed’ for several tens of thousands of respectable citizens? God keep us from putting that old cracked record on again...” Franz Rosenzweig, *On Jewish Learning*, Edited by N. N. Glatzer (New York: Schocken Books, 1965), 57-58.

if people left free to play unencumbered by the category of religion in the background culture, might be less of a target for manipulation by dangerous ideologues.<sup>111</sup>

---

<sup>111</sup> This is part of an ongoing project to rethink the normative terms we use when talking about the aspect of life we usually describe as “religious.”