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Hannah Levinson

University of North Carolina at Charlotte

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Refocusing the Refugee Regime: From Vagrancy to Value

Hannah Levinson

University of North Carolina at Charlotte

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This is an exploration of two moral-political accounts in my search to establish and frame better treatment of refugees. When regarding refugees as human beings whose lives lack sustainable levels of political, economic, and social stability, both of the frameworks I look at stress the importance of providing such persons with succor and alleviation. Martha Nussbaum's capabilities approach posits the human body as a bearer of elemental rights that ought to be recognized and realized. Judith Butler presents an argument that focuses on life's precariousness and grievability. Situating the refugee in a normative context will, I think, strengthen the foundation needed for a focus on determining what sorts of actions should be taken to rectify the situations of increasingly protracted refugee populations which, arguably, consist of the world's most vulnerable political beings.

The definition of who can be called a refugee is disputed, but the most widely-accepted definitional parameters are provided by the U.N. High Commissioner for Refugees (UNHCR). UNHCR frames the refugee as an individual who, "owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular group or political opinion," has been involuntarily displaced from her country of origin or the place that she might consider "home." The limiting scope of this definition, however, affects when, why and how intervention is considered; it can exclude individuals who, as involuntarily displaced persons, ought to be considered refugees. Because of this, I think we need a broader definition of the refugee, and for this project I am introducing one that includes internally displaced persons, stateless persons, and persons displaced by natural disasters. My definition also includes persons oftentimes referred to as "economic migrants" whose mobilization-inducing poverty can be considered a form of coercive displacement, effectively created by failures of their nation-state's and immediate community's social and political institutions.

While examining accounts from Martha Nussbaum and Judith Butler, I argue that the perilous conditions experienced by refugees impart a common responsibility to recast conceptions of protection and the political in relation to refugees. I aim to determine whether we should work to alter the circumstances of refugees, and what sorts of strategies adequately take into account the multi-faceted and dynamic circumstances that carve out the space of the refugee as a forcibly displaced figure.

Nussbaum considers humans innately political beings who “exert a moral claim that (they) should be developed,” and advocates a “capabilities-oriented” approach that begins with a consideration of “the human being as a dignified free being who shapes his or her own life, rather than being passively shaped or pushed around by the world.”¹ Nussbaum’s framework defends a universal obligation to protect human beings by providing social infrastructures that allows the flourishing of their capabilities. The capability to shape one’s own life is, according to Nussbaum, what makes human nature distinctive; our “humanness” depends upon our ability to access the means to realize specifically human capabilities. For Nussbaum, the recognition of both inherent and realizable capabilities in another person is the point when an obligation arises to help her realize her capabilities.

Butler defends an account of social ontology and of the vulnerable body as a foundation for ethicality and normativity. For Butler, ontology is contingent for all life and based in the generalized conditions of “precariousness” and “grievability.” Butler describes precariousness as an inescapable and basically universal condition, regardless of one’s perceived disengagement from (or, conversely, seeming susceptibility to) the more precarious facets of existence. She refers to bodies whose precariousness is maximized on the political front as being in states of “precarity” where precariousness has been differentially allocated for the bodies in question.² According to Butler, the motivation to aid involves both apprehension and recognition of the differentially allocated precariousness of others.

Without a meticulous framework that denotes human life with a certain worth—in the case of Nussbaum, because of the human’s teleology, found in her inherent and potential capabilities; in the case of Butler, because of the inherent value we should extrapolate from the extensive interdependency and precariousness of all life, and the grievability accorded a life “worth living”—it becomes much more difficult to proceed with a coherent justification for action. Thus, a moral-political account of the scope of both Nussbaum and Butler’s proposals, is, I think, necessary to explicate the obligation—humanitarian or otherwise—to alleviate the perilous situations of the world’s refugees. However, as I will demonstrate, the mechanism that a moral-political account works through is just as crucial, and an account that places too much stock in state-centrism and existing sociopolitical institutions within the society of nation-states cannot sufficiently address the singularly difficult and complex situations of refugees. The circumstances of the refugee involve exclusion, or oftentimes persecution by the

community or state she would traditionally look to for her protection and opportunity to flourish. Sometimes she is unable to access adequate resources, and thus impelled to seek new haven. In order to adequately address these difficulties, there must be a cognizance of these particular singularities in the account. To answer questions about how and why refugees are treated the way they are, the lack in egalitarianism of refugees' treatment must be highlighted and explained. I find that this is a lack in Nussbaum's account that Butler's picks up and addresses better.

I. Common Central Capabilities

Nussbaum calls her account of the human functions the "thick, vague theory of the good" to convey her theory's ahistorical universality and cross-cultural flexibility. It emerges from

a wide variety of self-understandings of people in many times and places, from the stories people tell themselves when they ask what it is to live as a being with certain abilities that set it apart from the rest of the living beings in the world of nature, and with, on the other hand, certain limits that derive from membership in the world of nature.³

Nussbaum describes the lists of capabilities she details as "open-ended" and heterogeneous, containing both "limits against which we press and capabilities through which we aspire."⁴

Capabilities operate on two levels, or "thresholds," the second of which must be reached by public policy, personal motivation and social interaction. The first threshold involves elements which together compose the "shape of the human life": mortality, the human body, cognitive capability, early infant development, practical reasoning, affiliation with other human beings, relatedness to other species and to nature, humor, play, and separateness. According to Nussbaum, a life without any of these items would be "too lacking, too impoverished to be human at all,"⁵ so these are necessary conditions for a life to be considered human. The central political goal of Nussbaum's framework is that the gap between the presence of these "lower-level" capabilities and the potential each human exhibits to fulfill "higher-level" capabilities be filled. "It is that gap between humanness and its full realization," Nussbaum states, "that exerts a claim on society and government."⁶

For Nussbaum, then, points of intervention fall between the cognizance of this first threshold and the realization of a second threshold "beneath which those characteristic functions are available in such a reduced way that, though we may judge the form of life a human one, we will not think it a good human life."⁷ Nussbaum claims that the second threshold, in particular, exhibits the "open-endedness" she describes because "in many cases the move from human life to good human life is supplied by the citizen's

own powers of choice and self-definition,”⁸ and insofar as public policy provides the *opportunity* for the threshold of the “good human life” to be met, the actual implementation of second-threshold capabilities ultimately remains in the hands of the person in question. “Open-endedness” also refers to the malleability of the listed items across cultures. Nussbaum puts in these qualifiers to ensure that the capabilities approach cannot be criticized for being paternalistic.

The items Nussbaum lists as elements of the second threshold represent the availability of means to activate the capability in question: “the capability to function, not actual functioning, should be the goal of legislation and planning.”⁹ Second-threshold capabilities include the abilities to: move from place to place at will; live out a “complete” human life, without fear of dying prematurely; have good health; avoid unnecessary pain and access pleasure; use all five senses, as well as intellect, imagination and reason; have attachment to others, love, and grief; have a conception of the good and engage in critical planning about one’s life; engage in different forms of social interaction; live with concern for and relation to non-human animals and plants; laugh and play, and live one’s own life in a chosen set of surroundings and context.¹⁰ Of these, Nussbaum calls practical reason and affiliation “architectonic”: these particular capabilities, Nussbaum argues, “(hold) the whole enterprise together and make it human.”¹¹

Though the provisions of Nussbaum’s approach are wide-ranging and meticulously detailed (indeed, well-defended against other normative theories of social ethics and public policy¹²), I want to argue that there is still a limitation to capability theory that hinges itself nearly directly on the status of refugees, particularly those fleeing in-state violence. Nussbaum clearly states that the capabilities approach requires that the state be, in large part, responsible for the implementation and continuation of social programs that work to help humans realize their capabilities. In the case of the refugee who is forced to flee in-state violence, however, the facilitation of these sorts of programs will not be addressed by the refugee’s “home state.” Indeed, the refugee who finds herself without a “home” is often driven from it by the very state that Nussbaum’s approach claims ought to be one of her closest sources of protection. Now, Nussbaum has built provisions into her approach she thinks ecumenical enough to counter this limitation. Again, this is why, after creating the lists of capabilities, Nussbaum constantly reminds us that the lists are “open-ended”; she makes sure to acknowledge the history of prejudicial applications of social justice theories like hers, making reference to the “inglorious saga of capability testing”¹³ in one article.

Let us see if there is enough leeway to potentially solve the lacuna between the capability approach’s close connection to the state and finding a means of facilitating proper treatment of refugees. Seemingly, with the adaptability Nussbaum’s approach seems to provide, some sort of solution for refugees can be proposed. Can other nation-states utilize Nussbaum’s lists of capabilities to implicate the state, sovereign body, or

social group that disallows even first-threshold capability realization for refugees? Can the international juridical realm do the same in circumstances where individual nation-states fail? Yet Nussbaum's ideas are already, in varying degrees, implemented at the state level and within international law,¹⁴ so it seems that something is still missing. As an object of political coercion and violence that often stem *directly* from the nation-state and its operating bodies, the refugee still lingers in an amorphous no-man's land the capabilities approach is unable to reach. What are the underpinnings of this shortcoming?

On Nussbaum's account, the "moral concept of the human" drives us toward "recognition," or moral acknowledgment and thus accession to capability-oriented rights claims. *How*, then, are refugees relegated to their statelessness by another conscious moral being, or set of conscious moral beings? How are they left languishing under the effete jurisdiction of international law, unprotected by the state, banished from her birthplace, former residence, and former community? If Nussbaum stands by her argument, these questions which pertain specifically to the situations and traumas of the refugee cannot be answered adequately by the capabilities approach as I read it. The normative ideal Nussbaum purports has not, and perhaps cannot, account for the treatment of the stateless, rightless bodies of refugees. We turn now to Butler for an account that focuses on the disparaging treatment of ostracized or marginalized political figures like refugees.

II. A Social Ontology of Precariousness: The Vulnerable Body as Incentive to Act

Butler states that, as a generalized condition of life, precariousness begins at birth. In order to realize the extinguishment of life as a loss, the social nature of ontology involves what she calls "apprehending" another life as grievable, and on equivalently precarious grounds as one's own. To apprehend the generalized conditions of precariousness and grievability is to notice and identify vulnerability in another, and the requirements that must be fulfilled for that other being's life to be sustained. However, on the grounds that "there is no life and no death without a relation to some frame,"¹⁵ Butler seeks to illustrate how, if a life is not apprehended as grievable, it cannot be "recognized" in the sense that theorists like Nussbaum argue it can. Michael Kelly states that "(if) recognition is one of the basic concepts in liberalism, Butler is critiquing liberalism with the concept of apprehension in order to capture the persons that liberalism excludes from recognition systemically, not just accidentally."¹⁶

On Butler's account, before the sort of recognition Nussbaum aims for can even be considered, normalized epistemological "frames" are working to "generate specific ontologies of the subject"¹⁷ and obscure certain lives from recognition. Here, what Butler calls frames are sociocultural norms, "historically articulated and enforced," that determine what lives will or will not be considered grievable and thus livable. On Butler's account, if a life is not *apprehended* as grievable, it is then not "recognizable"

as human, or worthy of being protected. So those who consider the lives of refugees ungrievable do not allot them even the first threshold of capabilities Nussbaum describes. Certainly, some lives will, in a strong social sense, have “recognizability,” but many others will not. Immigration policies, and the oftentimes brutal treatment of immigrants, give us an example of this: a non-citizen is often given a pejorative designation, condemned for ulterior motivations, and hardly ever referred to with the same concern a citizen is (“How is her health? Are her children doing well in school? How has she been doing financially during this difficult recovery period?”). Here, frames, or the lenses through which grievable subjects are constituted, are what “produce an historically contingent ontology, such that our very capacity to discern and name the ‘being’ of the subject is dependent on norms that facilitate that recognition.”¹⁸

Once we understand the functions of recognizability, it follows that those who are not characterized by recognizability go unrecognized: during the stage of apprehension that Butler argues necessarily *precedes* recognition, those lives that fall outside the norms that frame the recognizable fail to be characterized as grievable lives. Due to this lack of grievability, their lives can, and often do, go unacknowledged by surrounding communities—they do not count as human. Butler uses the obituary, “the means by which a life becomes, or fails to become, a publicly grievable life,”¹⁹ as a primary example of how public discourse, and the limits of it, “establish the limits of human intelligibility.”²⁰

If we consider one narrative Butler provides of a Palestinian American who submitted the obituaries of two Palestinian families to the *San Francisco Chronicle*, we clearly see a paradoxical and prejudicial allocation of grievability, and thus recognizability, which prevents the recognition of certain populations. The *Chronicle*, in response to this man’s letter, told him that newspaper policy disallowed the publication of obituaries without death certificates. The man resubmitted memorials in the obituaries’ stead, only to have his second request for public grieving denied on the grounds that the newspaper did not wish to offend its readership. Here, “(in) the silence of the newspaper, there was no event, no loss, and this failure...(was) mandated through an identification with those who identify with the perpetrators of violence.”²¹ Apprehended as ungrievable, precariousness was meted out to these Palestinians differentially and in such a way as to deny humanness, and the sort of treatment accorded a grievable human life. These were humans whose unrecognizability made it possible for them to be denied a basic regard as humans, a regard that those within norms of recognizability never think of losing.

Butler makes a clear distinction between the function of apprehension and the achievement of recognition that prompts moral action. Apprehension of another precarious life, she repeatedly states, does not *guarantee* a moral response in the person who apprehends. Especially when facilitated by the frames of historically contingent norms, apprehension can stimulate behaviors of oppression and violence in the one who

apprehends, can give “an insight into the physical vulnerability of others that incites the desire to destroy them.”²² The ethical response of guarding the precarious other, then, is constantly affected by the norms of recognizability, and by the recreation and (de)stabilization of the epistemological frames that shape how we apprehend. Butler insists that

if we are to make broader social and political claims about rights of protection and entitlements to persistence and flourishing, we will first have to be supported by a new bodily ontology, one that implies the rethinking of precariousness, vulnerability, injurability, interdependency, exposure, bodily persistence, desire, work and the claims of language, and social belonging.²³

III. The Particular Precariousness of the Refugee

Again, bodies in precarity, on Butler’s definition, are subjected to violence that can proceed directly from a state or operating body that, at the same time, carries on an inverse set of relationships with other bodies in their immediate vicinity, associations of protection and inclusion. Refugees, then, can be seen as bodies in utmost precarity. They are subjected to processes, sometimes state-oriented, “whereby the ontological status of (the) targeted population is compromised and suspended.”²⁴ These processes, made possible by exploitation of the targeted population, can be seen as following from the detrimental type of apprehension mentioned before; in this case, the lives apprehended are not designated with grievability. These refugee bodies are

cast as a threat to human life...rather than as living populations in need of protection from illegitimate state violence, famine, or pandemics. Consequently, when such lives are lost they are not grievable, since, in the twisted logic that rationalizes...the loss of such populations is deemed necessary to protect the lives of “the living.”²⁵

In late modernity, the body of the refugee can be seen as one of the most frequently reproduced figures living outside the norms of life.²⁶ The refugee “not only becomes the problem to be managed by normativity, but seems to be that which normativity is bound to reproduce: it is living, but not a life.”²⁷ If considered undesirable or troublesome by a dominant group, she is ousted completely from the frame of normal society—perhaps because of her adherence to an unwanted ideology, or because of her ethnic background. After fleeing persecution or being forced into exile, she may receive temporary shelter from UNHCR and other humanitarian organizations. She still remains unwanted, however, on a general political level: she is unable to safely return to her former home, and she is hardly ever fully (legally) welcomed into the community or state where her makeshift residence is haphazardly constructed. Her rejection is considered necessary—for the preservation of the state, for the reinforcement of an idealized identity. She is excluded from legal privileges in her asylum country because

its leaders feel bound to the principles and protection of national sovereignty and citizenship, “received, as it were, on the condition that (she) does not belong to the set of juridical obligations and prerogatives that stipulate citizenship or, if at all, only differentially and selectively.”²⁸ The case of the economic refugee involves another sort of societal exclusion, but very similar results. Thus, even if the refugee’s existence is acknowledged by some members of the international community—the U.N., the humanitarians, the secondary media—she remains in legal limbo, unable to repatriate, or reenter the realm of the real; she cannot regain refuge under the umbrella of the sovereign and accepted, of citizenship and community.

IV. Refocusing on the Refugee

I have shown, through both the structure of the capabilities approach and the criticisms of recognition-based theories provided by Butler’s recent writings, that Nussbaum’s justifications for the preponderance of the capability approach, in the cases of refugees, are insufficient.²⁹ The capabilities approach cannot account for why, if the denial of another’s humanness is impossible when the moral categories for recognition are in place, certain states and parties still choose to do so by creating refugees whose statuses are well-defined as the “fundamental situation of rightlessness.”³⁰ Indeed, the bodily status of “refugeeness” has also been described as an “inclusive exclusion,” such that the figure of the refugee constantly hovers around the perimeter of frames of acceptability and protection, but is never really allowed “in.” Since the capabilities approach does rely heavily on state involvement and support to ensure the fulfillment of second-level capabilities, Nussbaum’s original manifests falter in the cases of refugees.

Butler notes that stateless persons “are not just stripped of their status but accorded a status and prepared for their dispossession and displacement; they become stateless precisely through complying with certain normative categories.”³¹ If, for example, the state is the prejudicial component that has chosen to reconstruct a person or people group as undeserving of capability realization, soon-to-be refugees are sized up by the state and, upon decision that the lives in question does not meet the first threshold of capability, ejected from the coherence of almost all political communities that support the creation and sustenance of second-threshold capability. This is quite commonplace for nation-states; upon realization of the vulnerability of their normalization and dominance, they select a subject or series of subjects that threaten “security” and, following this selection, take the steps necessary to minimize the state’s own precariousness.

If Nussbaum’s theory chooses to defer to the jurisdiction of existing international laws and norms, then the capabilities approach still falls short: neither the U.N., nor any other international agency, has the economic or political capacity to impinge on the sovereignty of nation-states that opt out of caring for their citizens in manners that conform to the standards of Nussbaum’s capabilities lists. And though Nussbaum does

acknowledge the utility of non-governmental, coalitional movements and grassroots organizations in her work, her methodology is still missing a component that is very important, one that Butler's account of apprehension clearly invokes and pushes us toward: the paramount importance of the language of affect in creating real desires to engage in practical forms of helping that follow moral obligation. Altering and affecting the circumstances of refugees involves first reconceiving the epistemological framing that casts refugees outside of ordinary, recognizable social and political frameworks. It is in the stage of apprehension that an ethical exhortation can be provided about certain lives that are ordinarily cast as unrecognizable, like those of refugees. Nussbaum's account lacks this stage, precluding forms of social critique and sensate democracy that might elucidate cracks in epistemological frames that generally render refugee populations unrecognizable.

I am not arguing that the recognition of lives in precarity, which is what Nussbaum's capabilities approach starts with, cannot activate claims about the rights of bodies in precarity. But Nussbaum's approach lacks a connection of and continuous communication between the stages of apprehension and recognition, and the cases of refugees are too dynamic for the framework of the capabilities approach. When apprehension of precariousness is coupled with recognition, proactive social agendas can found "an alliance focused on opposition to state violence and its capacity to produce, exploit, and distribute precarity."³² An approach to normative inquiry that begins with apprehension can be utilized by these alliances to shift the frame of moral obligation to a more radical "ought" as we seek to find means of including once-unrecognizable figures within the norms of recognizability. Finally, when apprehension is followed by recognition, it can serve as the bridge from moral conceptions that lack adequate inclusion of refugees and their movements.

When Butler speaks of the "mobile alliances" she envisions, she makes sure it is understood that these alliances and coalitions do not settle into liberal or multicultural bases, but rather are "bound together less by matters of 'identity' or commonly accepted terms of recognition than by forms of political opposition to certain state and other regulatory policies that effect exclusions, abjections, partially or fully suspended citizenship, subordination, debasement, and the like."³³ This work involves "a kind of analysis capable of calling into question the framework that silences the question of who counts as a 'who'—in other words, the forcible action of the norm on circumscribing a grievable life,"³⁴ so will need to involve shifting mediums that counteract the dominant media, ideologies, and frames of normalization that ostracize refugees or potential refugee groups. Since Butler emphasizes that by "parsing forms of representation" we can apprehend the differential and exclusionary norms that need critiquing in the legal-political realm, these alliances will work both with and under the level of state-based institutions, but also beyond it, incorporating the resources of globalization via sub and supra-national means to build spaces for resistance against dominant frames. The varying forms these coalitions can take are not directly outlined

by Butler, though she does offer up Muslim LGBTQ groups as examples of how coalitions can form over and through “active antagonisms.” “The point,” she stresses, “is to insist that normative inquiry take on a critical and comparative form so that it does not unwittingly reproduce the internal schisms and blind spots inherent to those versions of the subject.”³⁵ Thus, whether these mobile alliances work through non-governmental organizations, internet forums, or artistic spheres, their role and aim will be to shift from normalized focuses that obscure or abuse figures like refugees and reify their differential precarity.

Without us first learning to notice the effects of, perhaps a near-global entrenchment in sets of normalized frames that seek to keep refugees expendable, the refugee will continue to go unrecognized, and thus, her humanity—her inherent and realizable capabilities—will remain unrealized. I think an account like Butler’s that strives to reorient political perceptions toward “a consideration of precarity as an existing and promising site for coalitional exchange”³⁶ can produce a better, more dynamic methodology for refugee rights, one that does not rest on exclusionary maxims, nor comes to rest at all. A sensitivity to and an ability to address the particular needs of refugees through the affective level is more plausible at the level of “mobile alliances,” or non-identitarian coalition-building, than through the nation-state and its related institutions. Thus, my practical suggestions, in accordance with Butler, call for this sort of coalition-building and movements that seek to create more egalitarian norms of recognizability. As I have illustrated, this can entail a varied series of social projects, all of which require constant attention, capital, and creative resources in order to remain relatable. Because new opportunities continually emerge for coalitional convergence, it is through the step of apprehension that I hope to see a refocused set of approaches to normative obligation that center on the refugee in the realm of the moral and political alike. My hope is that, by learning to use the phase of apprehension to bring recognition to refugees, we can find better means of grounding obligation to contemporary refugee figures and their crucial, singular needs for consideration and care.

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¹ Martha Nussbaum, "Capabilities and Social Justice," *International Studies Review* 4, no. 2 (Summer 2002), 123-4.

² From this point onward, when referring to the precariousness of refugees and refugee populations, the term "precarity" will be used; this specificity aims to increase the reader's understanding of the differential allocation of precariousness. This term also denotes the precariousness of refugee bodies with more pointed accuracy.

³ Martha Nussbaum, "Social Justice and Universalism: In Defense of an Aristotelian Account of Human Functioning," *Modern Philology* 9 (May 1993), S54.

⁴ *Ibid*, S55.

⁵ *Ibid*, S57.

⁶ *Ibid*, S62.

⁷ *Ibid*, S57.

⁸ *Ibid*, S58.

⁹ *Ibid*, S58.

¹⁰ *Ibid*, S58-59.

¹¹ *Ibid*, S59.

¹² To demonstrate the superiority of the capabilities approach, Nussbaum contrasts it with other liberally framed theories that work in human development. In comparison to resource-based, preference-based, and human rights-oriented approaches, Nussbaum finally finds a capabilities-oriented approach superior in that it encompasses not only the breadth of the aforementioned approaches but also “makes each person a bearer of value, and an end.” Nussbaum considers the capabilities approach more holistic in that it addresses discrepancies wherein these approaches are lacking, primarily in “the issue of care and our need both to receive care and to give it.” In so doing, Nussbaum requires the creation and continued existence of social programmes that enable the “combined capabilities” of all members of society, that is, the permanence of options that work to realize each central capability of a decidedly worthwhile human existence.

¹³ Martha Nussbaum, “Social Justice and Universalism: In Defense of an Aristotelian Account of Human Functioning,” *Modern Philology* 9 (May 1993), S62.

¹⁴ Nussbaum served on the board of the United Nations Development Programme, and along with Amartya Sen, whose development economics is also based in capability theory, helped develop the UNDP’s aims, theories and goals.

¹⁵ Judith Butler, *Frames of War: When Is Life Grievable?* (New York: Verso, 2009), 7.

¹⁶ Michael Kelly, “Butler’s Aesthetics, Salcedo’s Politics,” 5.

¹⁷ *Ibid*, 3.

¹⁸ *Ibid*, 4.

¹⁹ Judith Butler, *Precarious Life: The Powers of Mourning and Violence* (New York: Verso, 2004), 34.

²⁰ *Ibid*, 35.

²¹ *Ibid*, 36.

²² *Ibid*, 2.

²³ Butler, *Frames of War: When Is Life Grievable?* (New York: Verso, 2009), 2.

²⁴ *Ibid*, 29.

²⁵ Judith Butler, *Frames of War: When Is Life Grievable?* (New York: Verso, 2009), 31. Oftentimes, bodies subjected to states of precarity are minority groups. These groups can be most easily subjected to precarity through external pressures from other groups who disfavor their ethnic or tribal backgrounds, religious or political affiliations, or sexual lifestyles and orientations.

²⁶ Thus, the life of the refugee is one of the ungrievable lives Butler describes. It is analogous to Hannah Arendt’s description of rightlessness in *The Origins of Totalitarianism*: when Arendt describes persons deprived of human rights, she is referring specifically to stateless persons; “the fundamental deprivation of human rights,” Arendt states, “is manifested first and above all in the deprivation of a place in the world which makes opinions significant and actions effective.” According to Arendt, the fundamental

deprivation of statelessness/rightlessness entails the disappearance of any mean or medium of acknowledgment or connectivity to a public realm.

²⁷ Judith Butler, *Precarious Life: The Powers of Mourning and Violence* (New York: Verso, 2004), 8.

²⁸ Judith Butler, *Who Sings the Nation-State? Language, Politics, Belonging* (Calcutta: Seagull Books), 6.

²⁹ In response to the objection that her conception of the good life can be prejudicially applied, Nussbaum argues that in circumstances where subhuman statuses and titles are attributed to human beings, an avoidance mechanism is used in attempt to quell and ignore the strength of the moral notion of the “human being.” Nussbaum stresses that the concrete descriptions the capabilities approach provides “(push) us towards moral acknowledgment.”

³⁰ Hannah Arendt, *The Origins of Totalitarianism* (New York: Harvest Books, 1973), 296.

³¹ Judith Butler, *Who Sings the Nation-State? Language, Politics, Belonging* (Calcutta: Seagull Books), 50.

³² Judith Butler, *Frames of War: When Is Life Grievable?* (New York: Verso, 2009), 32.

³³ Judith Butler, *Frames of War: When Is Life Grievable?* (New York: Verso, 2009), 147.

³⁴ *Ibid*, 162.

³⁵ *Ibid*, 162.

³⁶ *Ibid*, 28.