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Vulnerability

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EDITED BY

Catriona Mackenzie
Wendy Rogers
Susan Dodds

Vulnerability

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Introduction: What Is Vulnerability, and Why Does It Matter for Moral Theory?

Catriona Mackenzie, Wendy Rogers, and Susan Dodds

In the first section of this introduction, we identify four questions that an ethics of vulnerability needs to address: What is vulnerability? Why does vulnerability give rise to moral obligations and duties of justice? Who bears primary responsibility for responding to vulnerability? And how are our obligations to the vulnerable best fulfilled? We explain how these questions have been addressed in the recent literature on vulnerability in ethics, bioethics, and feminist philosophy and articulate the central theoretical challenges for an ethics of vulnerability. In addressing the question “What is vulnerability?”, we propose a distinctive taxonomy of different sources (inherent, situational, and pathogenic) and states (dispositional and occurrent) of vulnerability. The second section of the introduction provides an overview of the structure of the volume and a *précis* of each essay.

Human life is conditioned by vulnerability. By virtue of our embodiment, human beings have bodily and material needs; are exposed to physical illness, injury, disability, and death; and depend on the care of others for extended periods during our lives. As social and affective beings we are emotionally and psychologically vulnerable to others in myriad ways: to loss and grief; to neglect, abuse, and lack of care; to rejection, ostracism, and humiliation. As sociopolitical beings, we are vulnerable to exploitation, manipulation, oppression, political violence, and rights abuses. And we are vulnerable to the natural environment and to the impact on the environment of our own, individual and collective, actions and technologies.

Although moral theorists, political philosophers, and bioethicists generally acknowledge that our human vulnerability is normatively significant, there has been little systematic analysis of the concept of vulnerability. The aim of this volume is to address this gap. By bringing a range of theoretical perspectives to bear on the concept of vulnerability, we hope to focus philosophical attention on its importance for moral theory and bioethics. In both everyday moral discourse and moral theorizing, vulnerability is often invoked in connection with a range of other concepts, including harm, need, dependency, care, and exploitation. The essays in this volume begin the theoretical work of understanding

and disentangling these conceptual connections. In doing so, they identify and seek to address some of the central challenges involved in developing and applying an ethics of vulnerability. One challenge is to delineate the scope of the concept—does it apply universally to all persons or mainly to persons or groups who are “more than ordinarily vulnerable (Sellman 2005, p. 4)? Other challenges include explaining why vulnerability generates moral and political obligations and clarifying the nature of these obligations, elucidating its connections to related ethical concepts, and addressing the danger of using discourses of vulnerability and protection to justify unwarranted paternalism and coercion of individuals and groups identified as vulnerable.

Despite the general undertheorization of the concept of vulnerability, it has been the focus of recent debate and discussion in three main areas. First, work by feminist theorists, such as Virginia Held (1987) and Eva Kittay (1999), on dependency and the ethics of care has highlighted the normative significance of vulnerability, and its importance for moral and political theory, a theme taken up subsequently in the work of Alasdair MacIntyre (1999) and Martha Nussbaum (2006). The focus on vulnerability and dependency in the work of feminist theorists also draws on Robert Goodin’s (1985) influential welfare consequentialist theory of vulnerability, which places duties to protect the vulnerable at the center of moral obligation. Indeed Goodin is an important interlocutor for our discussion in this introduction and for many of the contributors to this volume.¹

Second, the concept of vulnerability has been the focus of debate in bioethics, particularly in research ethics and more recently in the work of the United Nations Educational, Scientific and Cultural Organization (UNESCO 2005) and the European Commission on the core principles of bioethics.² Within bioethics, vulnerability is variably viewed as an ontological condition of all human existence and as a marker to identify those who require extra care, where the especially vulnerable are “those whose autonomy or dignity or integrity are capable of being threatened” (Kemp 1999, p. 9). These two conceptions of vulnerability are invoked in UNESCO’s recent *Report of IBC on the Principle of Respect for Human Vulnerability and Personal Integrity* (UNESCO 2011), which acknowledges universal human frailty, emphasizes contextual features that create or exacerbate vulnerability, and identifies specific groups who are especially vulnerable.³

Third, Judith Butler’s (2004, 2009) explorations of the ethics of *corporeal vulnerability* have sparked interest in the notion of vulnerability as an ontological condition of our humanity. Butler explores the ethical implications of the inherent vulnerability of the human body, which exposes us to the actions

¹ The work of Goodin and Kittay is also discussed extensively in chapter 7 by Dodds.

² Vulnerability is identified as one of the European Commission’s *Basic Ethical Principles in Bioethics and Biolaw* (Kemp 1999, p. 5).

³ For an extensive discussion of the place of vulnerability in bioethics, see chapter 2 by Rogers.

of others and may elicit a wide range of responses from them—from violence, abuse and contempt through to care, generosity, and love. This ambiguity is an ineradicable feature of the self–other relation and renders human life precarious. Butler suggests that precariousness—our human vulnerability to the actions of others—generates ethical obligations to ameliorate suffering and redress the inequities that exacerbate vulnerability. While emphasizing that precariousness is an ontological condition of human life, Butler also stresses that we are not all affected by it to the same degree. Some individuals and populations are disproportionately precarious, namely, those exposed to social and political violence and the ills associated with poverty.⁴

Recently, this has led Butler to a concern with human rights and distributive justice, a central theme in the work of other theorists who have taken up her notion of corporeal vulnerability. For example, legal theorist Martha Albertson Fineman (2008) appeals to the idea of corporeal vulnerability in the context of a critique of liberal legal and political theory, proposing that the concept of the *vulnerable subject* provides a new theoretical perspective for understanding inequality and disadvantage. Sociologist Bryan S. Turner (2006) draws on the notion of corporeal vulnerability in the context of human rights discourse and argues that human rights legislation responds to and seeks to mitigate corporeal, ontological vulnerability. Butler's work on ontological vulnerability is also connected to recent European activism and theoretical writing on *precarity* (Standing 2011), which refers primarily to the increased economic vulnerability experienced by some social groups as a result of globalization, the ideology and influence of neoliberalism, and the effects of the global financial crisis.

Our aim in this introduction is to motivate the project of the volume, to explain in more detail some of the theoretical and practical challenges for an ethics of vulnerability, and to situate the essays in the context of recent research and debate. Since the work of feminist theorists has played a crucial role in highlighting the normative significance of vulnerability, we see the volume as an important contribution to a range of ongoing debates in feminist ethics and bioethics, as discussed in the following sections.

1. Theoretical Issues

An ethics of vulnerability must begin by addressing four questions: What is vulnerability? Why does vulnerability give rise to moral obligations and duties of justice? Who bears primary responsibility for responding to vulnerability?

⁴ For a sympathetic appraisal of Butler's corporeal humanism, see Murphy (2011). Many of the central themes in Butler's work resonate with our concerns in this volume, and her work is highly suggestive. However, we do not engage in more detail with her work in this volume, in part because of her resistance to normative ethical inquiry.

And how are our obligations to the vulnerable best fulfilled? In this section we outline some of the ways these questions have been addressed in recent literature. In the following section we provide an overview of the volume and summarize the argument of each chapter.

1.1. WHAT IS VULNERABILITY?

There are two broad kinds of response to this question in the literature. The first links the concept of vulnerability to its derivation from the Latin word *vulnus* (“wound”) and to the capacity to suffer that is inherent in human embodiment. To be vulnerable is to be fragile, to be susceptible to wounding and to suffering; this susceptibility is an ontological condition of our humanity, “a universal, inevitable, enduring aspect of the human condition,” as legal theorist Fineman (2008, p. 8) points out. Other theorists who understand vulnerability this way are as diverse as Butler (2004, 2009), MacIntyre (1999), Nussbaum (2006), Ricoeur (2007), Schildrick (2002), and Turner (2006). According to Turner, it is because we are embodied that human beings have “an organic propensity to disease and sickness, that death and dying are inescapable, and that aging bodies are subject to impairment and disability” (p. 29). MacIntyre and Nussbaum draw attention to our human animality—that our bodies are animal bodies, which are liable to affliction and injury. These theorists also link our corporeal vulnerability to the inherent sociality of human life: as embodied, social beings, we are both vulnerable to the actions of others and dependent on the care and support of other people—to varying degrees at various points in our lives. As Butler (2009, p. 31) puts it, “The body is constitutively social and interdependent,” and it is this embodied vulnerability to others that makes human life precarious. Vulnerability and dependency are thus intertwined.⁵

An important motivation of theorists who highlight the universality of inherent ontological vulnerability and the interconnections between vulnerability and dependency is to focus attention on the need to reframe some of the founding assumptions of contemporary moral and political theory. MacIntyre (1999), for example, argues that moral philosophy has largely ignored the moral significance of vulnerability and dependence, a mistake he suggests arises from an overemphasis on rational agency and the concomitant mistaken “belief that our rationality as thinking beings is somehow independent of our animality” (p. 5). Placing vulnerability and dependence at the heart of moral theory, he argues, reveals that “the virtues of rational agency need for their adequate exercise to be accompanied by... the virtues of acknowledged dependence and that a failure to understand this is apt to obscure some features of rational agency” (p. 8).

⁵ We discuss the complex relations between vulnerability and dependency in what follows. See also chapters 7 by Dodds and 8 by Scully.

Nussbaum (2006) also contends that moral theory, particularly in its Kantian variants, has failed to account for the normative significance of human vulnerability. Although the concept of dignity is central to Nussbaum's version of capabilities theory, she contrasts her understanding of dignity, and its underlying conception of the human being, with a Kantian conception of dignity and personhood. She interprets the latter as founded on the Stoic idea that what specifically characterizes human personhood are the capacities for moral reason and freedom, which are radically distinguished from our animality and from the realm of natural necessity. It is in virtue of these capacities that human persons have a respect-worthy status. In contrast, Nussbaum situates her conception of dignity within an Aristotelian/Marxist tradition. According to this tradition, as Nussbaum characterizes it, human rationality and morality are interwoven with human animality, vulnerability, and bodily need. Thus, she says, "Our dignity just is the dignity of a certain sort of animal . . . that very sort of dignity could not be possessed by a being who was not mortal and vulnerable" (p. 132)—that is, a "needy enmattered being" (p. 278), whose rational capacities develop and change over the course of a human life. Furthermore, according to this tradition, sociability is a fundamental and pervasive characteristic of human life: "We live for and with others and regard a life not lived in affiliation with others to be a life not worth living" (Nussbaum 1992, p. 219). To be a human being is to be a particular kind of animal whose existence and flourishing depend on social relations with others, including relations of care.

Fineman (2008) proposes that the concept of universal vulnerability provides a powerful theoretical lens for reconfiguring legal and political approaches to inequality and disadvantage. She argues that antidiscrimination law and notions of formal equality fail to rectify inequalities and disadvantage arising from social exclusion and structural injustice because they are founded on the "myth" of the autonomous, independent, adult subject of liberal theory.⁶ A focus on universal vulnerability exposes this myth and necessitates a reframing of social policy around the figure of the *vulnerable subject* and his or her needs: "The vulnerable subject approach does what the one-dimensional liberal subject cannot: it embodies the fact that human reality encompasses a wide range of differing and interdependent abilities over the span of a lifetime" (p. 12). Whereas the myth of the liberal subject places responsibility for disadvantage onto individuals, for failing to make the most of the opportunities afforded them, placing the vulnerable subject at the heart of social policy

⁶ However, we question Fineman's conception of the autonomous subject and her understanding of *vulnerability* and *autonomy* as opposing states. For more detailed discussion see chapter 1 by Mackenzie. Other contributors to this volume also suggest that relational theories of autonomy (see, e.g., Mackenzie & Stoljar 2000) can reconcile the apparent tensions between vulnerability and autonomy (see chapters 5 by Anderson and 7 by Scully; see also Anderson & Honneth 2005).

focuses critical scrutiny onto social institutions and shifts the onus for redressing disadvantage onto the state.

The second kind of response to the question “What is vulnerability?” also emphasizes the fundamentally social or relational character of vulnerability, but rather than understanding vulnerability as ontological it focuses on the contingent susceptibility of particular persons or groups to specific kinds of harm or threat by others. In Goodin’s (1985) view, for example, to be vulnerable is to be susceptible to harm to one’s interests, and vulnerability is essentially relational: one is vulnerable to particular agents with respect to particular sorts of threats to one’s interests (p. 112). Although everyone is potentially vulnerable to such threats, what makes some persons or groups especially so is their lack of or diminished capacity to protect themselves. On this kind of view, then, vulnerable persons are those with reduced capacity, power, or control to protect their interests relative to other agents. Whereas the ontological response to the question “What is vulnerability?” stresses our common embodied humanity and equal susceptibility to suffering, this second response stresses the ways that inequalities of power, dependency, capacity, or need render some agents vulnerable to harm or exploitation by others.

There has been some discussion, particularly in bioethics, about the possible tensions between these two views of vulnerability. Most of the debates concern research ethics, where identification of research participants as vulnerable signals that these participants may have reduced capacity to give informed consent or may require extra protections against risks of harm or exploitation. In this context, critics have argued that the universalist conception of vulnerability is too broad and poorly defined to be of any practical use (Macklin 2003; Levine et al. 2004; Hurst 2008; Luna 2009; Schroeder & Gefenas 2009). By labeling everyone as (equally) vulnerable, this approach renders the concept of vulnerability potentially vacuous and of limited use in responding to specific vulnerabilities in research, because it obscures rather than enables the identification of the context-specific needs of particular groups or individuals within populations at risk (Levine et al. 2004; Luna 2009). Nevertheless, theorists have also cautioned about the dangers attendant upon labeling particular subgroups or populations as vulnerable, arguing that this can lead to discrimination, stereotyping, and unwarranted and unjust paternalistic responses (see, e.g., Dodds 2008; Luna 2009).⁷ Fineman (2008) raises similar concerns, criticizing the use of the concept to refer to *vulnerable populations*, which she claims associates vulnerability with “victimhood, deprivation, dependency, or pathology” (p. 8).

⁷ For detailed discussion of these debates see Rogers, Mackenzie, and Dodds (2012) and chapter 2 by Rogers.

We think both responses to the question “What is vulnerability?” identify important features of the concept and that both need to be incorporated into an ethics of vulnerability. We suggest that the following taxonomy may provide a useful way of integrating these two responses, by distinguishing distinct but overlapping kinds of vulnerability.⁸

A Taxonomy of Vulnerability

We propose a taxonomy of three different sources of vulnerability (i.e., *inherent*, *situational*, and *pathogenic*) and two different states of vulnerability (i.e., *dispositional* and *occurrent*) (Rogers, Mackenzie & Dodds 2012). By identifying the different sources and states of vulnerability, this taxonomy acknowledges the ontological vulnerability that is inherent in the human condition while at the same time enabling the identification of context-specific forms of vulnerability. In turn, this helps to identify responsibilities owed to the “more than ordinarily vulnerable” and potential interventions to mitigate the effects of various forms of vulnerability.

Inherent vulnerability refers to sources of vulnerability that are intrinsic to the human condition. These vulnerabilities arise from our corporeality, our neediness, our dependence on others, and our affective and social natures. We are all inherently vulnerable to hunger, thirst, sleep deprivation, physical harm, emotional hostility, social isolation, and so forth. Some of these vulnerabilities are constant: we all suffer hunger and thirst if we lack food and fluids for more than a few hours. Others vary depending on a range of factors, such as age, gender, health status, and disability: ill health creates specific vulnerabilities related to the illness in question; extremes of age exaggerate the everyday vulnerabilities of embodiment in proportion to the capacity of the individual to meet her everyday physical needs. Inherent vulnerability also varies depending on a person’s resilience and capacity to cope.

A second source of vulnerability is *situational*,⁹ by which we mean vulnerability that is context specific. This may be caused or exacerbated by the personal, social, political, economic, or environmental situations of individuals or social groups. Situational vulnerability may be short term, intermittent, or enduring. For example, natural disasters such as floods or hurricanes leading to destruction of homes can cause widespread vulnerability as those affected seek shelter and come to terms with their losses. Yet the overall effects of this initial catastrophe are very much mediated by the social context. In

⁸ In their respective chapters, Dodds and Mackenzie draw on and elaborate this taxonomy. For other applications, see also Lange, Rogers, and Dodds (2013) and Rogers and Lange (2013). For alternative ways of reconciling the tension between universal and context-specific views of vulnerability see also chapters 3 by Formosa and 8 by Scully.

⁹ Dunn, Clare & Holland (2008) also make a distinction between inherent and situational vulnerability, while Rogers and Ballantyne (2008) make a similar distinction between intrinsic and extrinsic sources of vulnerability.

an affluent country, the situational vulnerability caused by the loss of one's home to floods may be limited by adequate insurance, relative financial security, well-functioning infrastructure, and government assistance. In contrast, a similar natural disaster may lead to enduring vulnerability for families living in a poor country, with little or no support from government or nongovernment agencies.

These two sources of vulnerability, inherent and situational, are not categorically distinct. Inherent sources of vulnerability reflect to a greater or lesser extent features of the environment in which individuals are born and raised and live (e.g., health status very much depends on socio-economic factors), while situational causes of vulnerability will have greater or lesser effect depending on individuals' resilience, itself a product of genetic, social, and environmental influences. Nevertheless, the distinction is useful for identifying the variety and context specificity of sources of vulnerability. We note that ultimately all vulnerability is experienced in the body, whether its source is inherent or situational. Thus, our taxonomy acknowledges the universal nature of corporeal vulnerability, stressed by Butler (2004, 2009) and Turner (2006): it is because we are beings of flesh and blood that we experience vulnerabilities in the ways that we do. Our taxonomy, however, goes beyond this acknowledgment to provide a more precise theoretical vocabulary for analyzing vulnerability. This vocabulary, we claim, is necessary for understanding the different duties involved in responding appropriately to different kinds of vulnerability.

Both inherent and situational vulnerability may be *dispositional* or *occurrent*. While the inherent–situational distinction refers to sources of vulnerability, the dispositional–occurrent distinction refers to states of potential versus actual vulnerability. For example, all fertile women of childbearing age are dispositionally vulnerable to life-threatening complications in childbirth. But whether or not a pregnant woman is occurrently vulnerable to such complications will depend on a range of factors, both inherent and situational, such as her physical health, medical history, socioeconomic status, geographical location, access to health care, and cultural norms relating to pregnancy and childbirth. The dispositional–occurrent distinction serves to distinguish vulnerabilities that are not yet or not likely to become sources of harm from those that require immediate action to limit harm. The action required to ameliorate occurrent vulnerability may be limited (e.g., returning a person with dementia who is lost to his or her place of residence) or ongoing (e.g., providing safe accommodation for that same person).

Inherent and situational vulnerability give rise to specific moral and political obligations: to support and provide assistance to those who are occurrently vulnerable and to reduce the risks of dispositional vulnerabilities becoming occurrent. At times there may be no clear distinctions: for example, an income support program for single mothers wards off occurrent vulnerability

(perhaps only one payment at a time), but this group remains dispositionally vulnerable in societies where such support is not guaranteed. On the other hand, interventions such as vaccination may permanently remove an inherent vulnerability to particular diseases.

As well as specific harms associated with occurrent vulnerability, being vulnerable can engender a troubling sense of powerlessness, loss of control, or loss of agency. In view of this, we believe that the background aim of interventions triggered in response to vulnerability must be to enable or restore, wherever possible and to the greatest extent possible, the autonomy of the affected persons or groups. This is in keeping with a broad commitment to fostering autonomy and enhancing capabilities.¹⁰ However, we acknowledge that in some situations, such as incapacitating illness, this sense of powerlessness cannot necessarily be remedied (Hoffmaster 2006).

Our taxonomy identifies a subset of situational vulnerabilities that are particularly ethically troubling, which we refer to as *pathogenic* vulnerabilities. These may be generated by a variety of sources, including morally dysfunctional or abusive interpersonal and social relationships and sociopolitical oppression or injustice. Pathogenic vulnerabilities may also arise when a response intended to ameliorate vulnerability has the paradoxical effect of exacerbating existing vulnerabilities or generating new ones. For example, people with cognitive disabilities, who are occurrently vulnerable due to their care needs, are thereby susceptible to pathogenic forms of vulnerability, such as to sexual abuse by their carers. Likewise, pathogenic vulnerability may result when social policy interventions aimed to ameliorate inherent or situational vulnerability have the contradictory effect of increasing vulnerability. A key feature of pathogenic vulnerability is the way that it undermines autonomy or exacerbates the sense of powerlessness engendered by vulnerability in general.

Our notion of *pathogenic vulnerability* overlaps, to some degree, with Turner's (2006) notion of *institutional precariousness* in relation to human rights protections. Turner argues that human rights legislation evolves in response to the "dynamic and dialectical relationship between institutional precariousness and ontological vulnerability" (p. 32): on one hand, human rights protections are a response to human vulnerability, and strong and well-functioning states are necessary for providing such protections; on the other hand, institutional structures are often fragile and precarious, and state power can equally be the cause of human rights abuses. We agree with Turner that institutions are one source of pathogenic vulnerability, but our notion is more extensive; we think interpersonal relationships as well as institutional structures can be sources of pathogenic vulnerability.

¹⁰ For more detailed discussion, see chapter 1 by Mackenzie.

1.2. WHY DOES VULNERABILITY GIVE RISE TO MORAL OBLIGATIONS AND DUTIES OF JUSTICE?

Within the literature there are two broad responses to this question. The first response identifies vulnerability itself as the source of moral obligation. The second approach does not ground obligation in vulnerability but rather regards vulnerability as a signal that alerts us to obligations arising from other moral claims, such as those of harm or need. Our view is that the second of these views is more plausible, although we do not present an argument for this claim here.

The first approach has been most forcefully articulated by Goodin (1985), by feminist critics of liberalism such as Kittay (1999), and in the context of a feminist ethics of care. A recurring theme in this literature is that contractarian approaches to moral and political theory are flawed because they fail to recognize the normative significance of vulnerability and dependency. Goodin, for example, rejects contractualist and voluntarist models of obligation, arguing that vulnerability is the primary source of obligation. What generates obligations, he claims, is not the voluntariness or otherwise of the relationship but the fact of the other's dependency, which makes her vulnerable to one's actions and choices. In his view, most of our fundamental duties and responsibilities arise from relationships of dependency and interdependency that are not chosen: "duties and responsibilities are not necessarily (or even characteristically) things that you deserve. More often than not, they are things that just happen to you" (p. 133). Familial duties and responsibilities are paradigmatic here, but Goodin argues that many other relationships are less voluntary than we often assume.

Goodin's (1985) rejection of voluntarist and contractual notions of obligation is echoed in the work of feminist and disability theorists.¹¹ The critique of contractarian models of moral and political obligation has been developed in most detail by Kittay (1997, 1999) and Nussbaum (2006), who both criticize Rawlsian versions of social contract theory. Kittay argues that the fact of human dependency, and the obligation to care for dependents, calls into question the contractarian assumption that obligations toward those in need arise from reciprocal relations of mutual advantage among equal citizens. In contrast to contractarian conceptions of reciprocity as mutual advantage or as fair cooperation, which assume that individuals are "normal and fully cooperating

¹¹ For influential feminist critiques of contractualism, see, for example, Held's (1987) pioneering essay "Non-contractual Society," in which she seeks to remodel social relations on the mother-child relation, and Baier's (1994) essay "The Need for More than Justice." Baier argues that contractual relations and obligations among equal citizens are logically secondary to the noncontractual obligations and relations of unequals that are characteristic of care for dependent children. For an overview, see Tronto (1993). For related critiques by disability theorists, who criticize the idealization of independence and hypothetical reciprocity as characteristics of full citizenship status, see, for example, Silvers (1998) and Ho (2008).

members of society over a complete life" (Rawls 1993, p. 20), she argues that an adequate theory of justice must articulate principles that apply equally to citizens capable of fully cooperating and those unable to cooperate. Nussbaum further develops this critique of Rawlsian social contract theory, arguing that the assumption that the subjects of justice are "free, equal and independent" and prudentially and morally rational, effectively excludes persons with cognitive impairments from citizenship and fails to provide any basis for the just and decent treatment of nonhuman animals.

Several questions are raised by these critiques. First, while the concepts of vulnerability and dependency are closely connected, they are not equivalent. So how should the relationship between vulnerability and dependency be understood? Fineman (2008) distinguishes them as follows: "Whereas both are universal, only vulnerability is constant, while inevitable dependency is episodic, sporadic, and largely developmental in nature" (p. 9). In this volume, Susan Dodds and Jackie Leach Scully respond to this question in detail and seek to illuminate *how* vulnerabilities and dependencies interrelate and the significance of this interrelation for any account of the obligations and claims of justice that may arise from dependency or vulnerability.

Second, given these critiques of contractarian theories, which alternative theories of justice are best able to explain the justice obligations arising from vulnerability? Goodin's (1985) approach to justice is broadly consequentialist. It is not clear, however, that his attempt to derive broad social welfare obligations from special relationships of dependency and vulnerability is successful, for reasons given by Margaret Walker (1998) and Kittay (1999), whose critiques of Goodin are discussed in chapter 7 by Dodds. Nussbaum (2006) defends a capabilities-based approach to justice as an alternative to proceduralist forms of contractarianism. While not engaging specifically with Nussbaum's critique of Rawls's proceduralism, Catriona Mackenzie discusses in chapter 1 the merits of a capabilities-based approach to justice in developing social policy responses to vulnerability.

A third question is whether the problem is with contractarian models of obligation as such or whether there could be versions of contractarianism that are better able to explain the normative significance of vulnerability—for example, Kantian versions that eschew the social contract tradition. This is a complex question that deserves detailed investigation. While it is beyond the scope of our concerns in this volume to undertake this investigation in detail, Paul Formosa in chapter 3 demonstrates the capacity for Kantian approaches to explain the moral obligations arising from vulnerability, and in chapter 6, Janna Thompson suggests that Thomas Scanlon's (1998) moral contractarianism may not be as subject to feminist critiques as Rawlsian social contract theory.¹²

¹² Note that Nussbaum also suggests that Scanlon's version of contractarianism might be less susceptible to this critique, in part because it does not share the emphasis of classic social contract theories, including Rawls's, on similar abilities and powers in the state of nature (2006, pp. 67–68).

Returning to the question of why vulnerability generates moral obligations and duties of justice, the second response to this question holds that vulnerability per se does not generate obligations. Rather, its normative significance derives from its role in alerting us to the presence of other morally salient claims, such as those based on harm or need.

The concepts of vulnerability, harm, and need are closely connected, but their interrelations have not been fully explicated in the literature. Goodin's (1985) welfare consequentialist account, as we have seen, defines vulnerability in terms of susceptibility to harm to one's interests. Because we have obligations to maximize the satisfaction of people's interests or preferences, then we also have obligations to protect the vulnerable against potential threats to their interests. As Goodin is well aware, however, not all interests are equally morally demanding. He thus urges that "the principle of protecting the vulnerable is first and foremost an argument for aiding those in dire need" (p. 111). However, he provides little explication of the notion of needs or vital interests save to say that they are immutable and "constitute preconditions for whatever else we might desire to do or to be" (p. 200). But if a core component of the concept of vulnerability is that our needs or vital interests are susceptible to harm by the actions and choices of others, then we require a more detailed analysis of needs.

Here, the ethics of need (e.g., Brock 1998; Reader 2005, 2007; Wiggins 1991, 2005) intersects with the ethics of vulnerability. Sarah Clark Miller's (2012) recent contribution to needs theory suggests the potential for particularly fruitful dialogue between needs theorists and theorists of vulnerability. Miller develops a rich Kantian interpretation of the ethics of care. She seeks to establish that fundamental needs are the source of obligation, that we have a duty of care to respond to others' fundamental needs, and that the manner in which we respond to others' needs is of crucial importance.¹³ Miller understands fundamental needs as objective, inescapable, inevitable, urgent, and universal—needs that, if unmet, will result in the harm of compromised agency. They include needs for nutrition, shelter, bodily integrity, attachment, education, health, and social participation.

Several features of Miller's (2012) analysis are particularly relevant to our concerns in this volume. First, she links both the concept of need and the obligation to care to human vulnerability and dependency.¹⁴ We have needs because we are vulnerable biological and social beings. We need care because we depend upon each other to help us meet our needs. This interdependency gives rise to an obligation to provide care to others. Second, the notion of self-determined agency is central to Miller's account of both fundamental needs and care, as is it to our approach to vulnerability. In her view, what

¹³ For a related Kantian interpretation of the obligations arising from vulnerability, see chapter 3 by Formosa.

¹⁴ Unfortunately, Miller does not analyze the concept of vulnerability. However, she frequently links vulnerability to human finitude, suggesting that she understands vulnerability in the ontological sense, as a condition of our embodied and social humanity.

makes our lives characteristically human is the capacity for self-determined (rational, emotional, and relational) agency; thus, human needs are inextricably bound up with human agency. Caring is the process of “responding to another’s needs by understanding their self-determined ends, adopting those ends as one’s own, and advancing them in an effort to cultivate, maintain, or restore their agency” (p. 79). Third, Miller’s attention to the importance of what she calls *dignifying care*—care that is nonpaternalistic and that respects and supports another’s self-determined agency—and her critique of forms of care that undermine agency echo our critical attention to forms of intervention that generate pathogenic vulnerability and our stress on the importance of responding to vulnerability in ways that avoid stereotyping and paternalism.

1.3. WHO BEARS PRIMARY RESPONSIBILITY FOR RESPONDING TO VULNERABILITY?

Once attention is focused on the moral significance of vulnerability, further questions arise concerning who bears responsibility for responding to vulnerability and the limits of this responsibility. Addressing these questions raises a host of complex issues, relating, for example, to the conceptual connections between vulnerability and exploitation and the social distribution of responsibilities for care.

Goodin (1985) proposes that the duty to protect the vulnerable falls on anyone who is in a position to assist but most especially on those to whom a person is most vulnerable. Thus, persons who are in positions of power and authority have special responsibilities toward those over whom they have power or who are particularly dependent on them. Goodin identifies the potential for exploitation in asymmetrical relationships, where exploitation involves taking unfair advantage of other people (p. 194).¹⁵ Relationships involving inequalities of vulnerability create opportunities for more powerful persons to take unfair advantage of more vulnerable persons, particularly in situations where the more powerful exercise discretionary control over resources on which the more vulnerable are dependent and cannot obtain elsewhere (pp. 195–201) or where people are unable to protect themselves or their interests. The more

¹⁵ Allen Wood (1995) similarly links vulnerability with exploitation. On his account, vulnerability is the key element that permits exploitation to occur, as its presence gives one party power or control over the other. According to Wood, vulnerability refers to an openness to being used rather than to being harmed; vulnerabilities may stem from a person’s needs, desires, or other feature of their character or from their situation. The wrongfulness of exploitation lies in using others’ weaknesses for one’s own gain and in the humiliation this creates in the exploited rather than (as per Goodin) in the unfairness of the transaction. On his account, responding to the vulnerable involves remedying the deficits or needs that cause vulnerability (ameliorating weaknesses rather than exploiting them) and doing this in ways that respect rather than demean the vulnerable. See also Macklin (2003, 2004) for discussion of the complex debate about what constitutes exploitation in research ethics.

powerful are thus obliged to be particularly vigilant not only in guarding against the misuse of their position of power, authority, or privilege to take unfair advantage of others but also in protecting those who are vulnerable to them.

Children are paradigm examples of persons who are vulnerable to harm or exploitation by virtue of the asymmetrical relations of dependency, power, and authority in which they stand to parents or other caregivers.¹⁶ But in the case of children, those to whom they are most vulnerable are not always committed to protecting them from harm or exploitation; indeed, in some cases these very persons might be the ones who, through abuse or neglect, pose the greatest threat to a child's welfare. The essays on parental obligations and children's vulnerability by Mianna Lotz, Marilyn Friedman, and Amy Mullin in this volume tease out the multiple ways children may be vulnerable to their caregivers. They also broach complex questions concerning how best to theorize the role of state institutions and the relations between parents and caregivers and those institutions in responding to children's vulnerability. At the other end of life, the elderly may also be especially vulnerable to inadequate provision of care and to harm or exploitation by their caregivers.¹⁷ In her contribution to this volume, Rosemarie Tong addresses the question of who has responsibility for responding to the vulnerability of the elderly and their needs for care—the family, the state, or both—in three contexts: the home; supported living residences; and nursing homes.

In addressing questions concerning who bears responsibility for responding to the vulnerability of children or the elderly, feminist theorists have emphasized the importance of avoiding biologically reductive assumptions or perpetuating historically unjust distributions of caring labor. Thus, they have drawn attention to social structures and historical inequalities, such as those involving gender or race, that may have shaped relationships of dependence and obligations of care. More recently, feminist theorists have also focused on global inequities in the provision of care.¹⁸ The movement of care workers from developing to developed nations, while going some way toward alleviating care needs in destination countries, creates other vulnerabilities such as those arising from the status and treatment of migrant care workers (e.g., whether they are employed legally or illegally) as well as diminished care for children and elderly parents in migrant workers' home countries. The determination of

¹⁶ For a more general overview of the ways dependence can generate vulnerability, see chapter 7 by Dodds.

¹⁷ We would characterize the abuse or exploitation of children or elderly persons by their caregivers as forms of pathogenic vulnerability.

¹⁸ See, for example, Bubeck (2002), Eckenwiler (2011), Kittay, Jennings, and Wasunna (2005), and Schutte (2002). Brock (2009) notes both the impact of the movement of care workers to developed nations on the vulnerability of dependents in developing nations and the impact on those nations of the loss of educated, engaged citizens on the vulnerability of the social institutions that are needed for secure citizenship.

who bears specific responsibility for the care of vulnerable others thus needs to be informed by a careful understanding of the ways relationships of vulnerability, dependence, and obligation are socially constituted both nationally and transnationally.

Two themes in feminist work on caring and dependency are particularly pertinent to our concerns in this volume: that unjust distributions of caring labor can render caregivers themselves vulnerable; and that we need to rethink care as an issue of social justice. Kittay's (1999) work on these themes has been pioneering. In contrast to conceptions of reciprocity as mutual advantage or as fair cooperation, she proposes an alternative, extended notion of reciprocity, which she calls *doulia*, a relation of "nested dependency" (p. 107), which aims to capture a form of generalized reciprocity involving social responsibilities to share the costs and burdens of dependency. This includes caring for those who care for dependents, thus recognizing that those who are responsible for vulnerable dependents are themselves thereby made more vulnerable. Fineman (2000) also argues that there is a need for the state to adequately recognize and compensate those who provide care: "Without aggregate caretaking, there could be no society, so we might say that it is caretaking labor that produces and reproduces society.... The uncompensated labor of care-takers is an unrecognized subsidy, not only to individuals who directly receive it, but more significantly, to the entire society" (p. 19).¹⁹

Rethinking care as an issue of social justice raises again the question of which theory of justice is best able to account for the obligations (including those of state institutions) to respond to vulnerability. Like Fineman (2010), the contributors to this volume would reject a libertarian conception of the minimal state, arguing that a central role of state institutions is to protect citizens from the vicissitudes of fortune, "collectively forming systems that play an important role in lessening, ameliorating, and compensating for vulnerability" (p. 269). While such systems cannot make citizens *invulnerable*, they provide us with resources that promote *resilience*. Many contributors to the volume, however, are also mindful of the fact that social policy discourses of vulnerability and protection can be used to justify paternalistic and coercive forms of state intervention that generate pathogenic forms of vulnerability. For this reason, many contributors argue that duties of protection must be guided by the overall aim of promoting autonomy.

Just as it is important not to assume that all those who are vulnerable will be able to reciprocate, it is also important to recognize that those to whom we may have vulnerability-related duties may not be our contemporaries. Goodin (1985) argues that the obligation to protect the vulnerable generates wide-ranging social welfare obligations and recognizes that these must include

¹⁹ See Dodds (2007) on how care workers' vulnerability is increased by failure to recognize their social contributions.

obligations to future generations, given the capacity for current and past generations to affect those who do not yet exist. In other words, just as among those who currently exist the very young are vulnerable to those who are older and the very old may be vulnerable to those who are younger, so too those who do not currently exist may be vulnerable to the actions and choices of those who do. Thompson's contribution to this volume criticizes the view that vulnerability-related obligations are restricted to obligations between contemporaries, drawing attention to the issue of intergenerational vulnerability and showing why we have these responsibilities to both past and future generations.

1.4. HOW ARE OBLIGATIONS TO THE VULNERABLE BEST FULFILLED?

We have seen that the concept of vulnerability is linked to notions of susceptibility to suffering or liability to harm, arising for example from unmet fundamental needs, and to notions of being wronged or exploited by others. It follows that the central obligations involved in responding to vulnerability include providing protection from harm, meeting needs, giving care, and avoiding exploitation. However, a key theme of this volume is that in responding to vulnerability we need to be very cognizant of the way that vulnerability is often associated with victimhood or incapacity and, hence, of the ways discourses of vulnerability and protection and the labeling of individuals, groups, or whole populations as *vulnerable* can lead to discrimination, stereotyping, and unwarranted paternalistic interventions. One problem with Goodin's (1985) consequentialist harm-based account is that it potentially opens the door to this kind of response because it is focused on duties of protection and pays insufficient attention to obligations to promote the autonomy and capabilities of vulnerable persons wherever possible.

This emphasis on fostering autonomy distinguishes our position not only from Goodin (1985) but also from Fineman (2008, 2010). On one hand, we agree with Fineman that one reason it is important to stress that vulnerability is an ontological condition of our humanity is because it encourages responses to *more than ordinary vulnerability* that are based in a sense of solidarity, as distinct from paternalistic forms of intervention. On the other hand, however, Fineman understands autonomy and vulnerability as oppositional concepts, contrasting the liberal (autonomous) subject with the vulnerable subject. In our view, taking ontological vulnerability seriously requires us to rethink, rather than discard, the concept of autonomy. If human persons are both ontologically vulnerable but also autonomous agents, then we need an account of autonomy that is premised on recognition of human vulnerability and an analysis of vulnerability that explains why we have obligations not only to protect vulnerable persons from harm but also to do so in ways that promote, whenever possible, their capacities for autonomy.

A number of contributors to this volume, including Joel Anderson, Dodds, Mackenzie, Wendy Rogers, and Scully, suggest that relational theories of autonomy (e.g., Meyers 1989; Mackenzie & Stoljar 2000; Anderson & Honneth 2005) provide the most promising approach to reconciling autonomy with the normative obligations arising from vulnerability. Relational theorists understand autonomy as a socially constituted capacity, in the twin senses that its development and exercise requires extensive social scaffolding and support and that its development and exercise can be thwarted by exploitative or oppressive interpersonal relationships and by repressive or unjust social and political institutions. This approach to autonomy is thus premised on the fact of our inescapable dependency on, and hence vulnerability to, others. Moreover, relational theorists regard agency and some degree of autonomy as important for a flourishing human life. For this reason, a relational approach is committed to the view that the obligations arising from vulnerability extend beyond protection from harm to the provision of the social support necessary to promote the autonomy of persons who are “more than ordinarily vulnerable.” A relational approach, then, provides a critical perspective from which some social policy responses to vulnerability can be identified as pathogenic: because they entrench or exacerbate existing vulnerabilities rather than scaffold the development and exercise of autonomy.

A related approach taken by some contributors to the volume is to understand the obligations arising from vulnerability in terms of respect and dignity. Formosa interprets vulnerability through the lens of Kantian ethics. He argues that the perfect and imperfect duties that follow from the principle of respect for persons must be responsive to human vulnerability, in particular to the ways that our capacities for rational agency are vulnerable by virtue of our embodiment and sociality. Margaret Walker interprets vulnerability through the lens of relational ethics, drawing attention to the *moral vulnerability* that is inherent in moral practices of accountability. Moral vulnerability, as Walker defines it, is exposure to the injury of rejection or denial of one’s moral status as a full participant in reciprocal accountability relations. In some cases redressing moral vulnerability requires assuaging dignitary wounds through reparative justice measures.

In this section we have mapped out some of the central questions and challenges that need to be addressed by an ethics of vulnerability. In doing so, we hope to have shown that understanding the concept of vulnerability and its normative significance raises complex questions that go to the heart of our conceptions of obligation, justice, and autonomy and our social practices and structures of care. A notable feature of the philosophical literature on vulnerability, as is evident from the preceding discussion, is the diversity of background moral theories within which the concept has been analyzed. Whereas Goodin’s (1985) ethics of vulnerability forms part of an argument for a broadly consequentialist approach to moral theory, the work of Kittay (1997,

1995, 1999) and Fineman (2000, 2008, 2010) engages primarily with a feminist ethics of care. Other theorists writing on vulnerability draw on quite different ethical traditions. For example, Butler's (2004) analysis of vulnerability draws on continental ethical theorists such as Levinas; MacIntyre (1999) works firmly within the tradition of virtue ethics; Nussbaum's (1992, 2006) conception of human vulnerability brings together themes in the work of Aristotle and Marx and is articulated as part of an argument for capabilities theory. Contributors to this volume similarly engage with a range of ethical traditions and open up a richly diverse vein of reflection, which we hope will spur further philosophical discussion of the ethics of vulnerability.

2. Overview

The essays in the first half of the volume comprise a series of reflections on vulnerability and its normative import.

Mackenzie's chapter is, in part, a response to Fineman's (2008, 2010) vulnerable subject model of citizen–state relations. Mackenzie is sympathetic to aspects of Fineman's analysis, in particular her critique of the rhetoric of individual freedom, personal responsibility, and the minimal state. However, she argues that Fineman's analysis of vulnerability as an ontological condition of our humanity obscures important distinctions between different sources and states of vulnerability. In developing this argument, Mackenzie draws on and develops the taxonomy outlined earlier in this introduction. She is also critical of Fineman's analysis of vulnerability and autonomy as oppositional concepts, which, she argues, conflates autonomy with a *libertarian* conception of autonomy. Drawing on relational theories of autonomy, Mackenzie shows that vulnerability and autonomy are not oppositional concepts. Moreover, both theoretically and in practice, a commitment to fostering autonomy must guide our understanding of the duties involved in responding to vulnerability. Failure to uphold the importance of autonomy can lead to objectionably paternalistic social policy responses that compound inherent or situational vulnerability and that may create forms of *pathogenic* vulnerability. Finally, Mackenzie draws on Elizabeth Anderson's (1999, 2010) capability-based theory of democratic equality to support the claim that the obligation to foster autonomy is a matter of social justice. In doing so, she draws conceptual connections between vulnerability, relational autonomy, and capabilities approaches to justice. She also argues that capabilities theory provides a stronger theorization of substantive equality and a stronger foundation for democratic equality than Fineman's vulnerability analysis.

Rogers, in her chapter, critically examines the place of vulnerability in bioethics and shows how conceptual confusion within bioethics about the scope of vulnerability and the obligations it generates demonstrates an underlying

lack of philosophical clarity about the concept of vulnerability. Rogers maps the place of vulnerability within research, clinical, and public health ethics, arguing that we need an account of vulnerability that explains the relations between vulnerability and other key concepts in bioethics such as autonomy and justice. This is an important task, as identification of vulnerability plays a central role in triggering protections, for example of research participants. Rogers traces the origins of vulnerability as a marker for extra protection back to the *Belmont Report* (National Commission for the Protection of Human Subjects of Biomedical and Behavioral Research 1979). She notes that despite a growing body of scholarship on vulnerability in research ethics, as yet there is no resolution of the tension between recognizing universal inherent vulnerability and identifying features that warrant specific protections. Within the literature, the concept of vulnerability is thus seen as both too broad and too narrow to be useful as a marker for effective moral concern. In addition, the protections offered to the vulnerable often reduce to issues of informed consent or, if this cannot be achieved, exclusion from research. Rogers argues that such an approach fails to recognize relevant sources of vulnerability or offer nuanced and context-sensitive responses and risks exacerbating inequalities. Her analysis of clinical ethics shows that vulnerability is a critical (though often tacit) concept, linked in one way or another to principles of respect for autonomy, beneficence, and nonmaleficence. As with research ethics, vulnerability in clinical ethics is understood to be either universal or specific and protections for the vulnerable risk paternalism. Within public health ethics, vulnerability is a more visible concept that serves to identify an increased risk of ill health, often linked to disadvantage. While there are accounts of what is owed the vulnerable within public health ethics (see, e.g., Brock 2002a, 2002b), Rogers argues that these accounts also lack a robust conceptual grounding capable of developing responses that avoid discrimination and paternalism.

Formosa's chapter also distinguishes two distinct senses of vulnerability: a broad sense, which corresponds to the notion of universal ontological vulnerability previously discussed; and a narrow sense, which identifies persons who are especially vulnerable. In contrast to the widespread view that Kant's ethics is based on an idealized conception of rational moral agency that overlooks the significance of human vulnerability, Formosa seeks to show that vulnerability in both senses is a core focus of Kantian ethics. His argument focuses specifically on the Formula of Humanity formulation of the Categorical Imperative and the derivation of duties from this formulation. Vulnerability in the broad sense, he posits, is central to the perfect and imperfect duties we owe to ourselves and others. As moral persons, we have perfect duties not to treat *ourselves* as mere means because, by virtue of our human embodiment, our rational agency is vulnerable to various forms of self-abuse and failures of self-respect. We have perfect duties not to treat *others* as mere means because

our corporeal and social vulnerability to others makes us liable to coercion, exploitation, and disrespect. The imperfect duties of moral self-perfection and promoting the happiness of others are also responsive to human vulnerability. Not only are our moral and rational capacities developmentally dependent on others, but also our attitudes of self-respect and our moral feelings are susceptible to the attitudes of others. It is thus because we are both vulnerable and rational that we need a moral community of mutual aid to develop our capacities, meet our needs, and achieve our ends. While Formosa argues that vulnerability in the narrow sense does not generate new duties to others, he does claim that it makes these duties more onerous, because we may need to take extra measures to fulfill them and because doing so may be more motivationally difficult, as in the case of the duties owed to vulnerable research participants.

The central concern of Walker's chapter is to understand what is at stake in reparations movements involving individuals or groups who have suffered grave, often state-sanctioned, human rights violations. Walker argues that although redress or compensation for the harms or losses suffered can be an important component of reparative justice, at its core is a more fundamental *calling to account* of those who committed the wrong. To understand this dimension of reparative justice, Walker introduces the concept of moral vulnerability, which is exposure to the injury of having one's moral status as a full participant in practices of reciprocal accountability relations denied or denigrated. Although we are all vulnerable to this form of disregard, victims of grave wrongdoing have usually suffered persistent and ongoing denial of their moral standing, both in the context of the original wrong and subsequently, for example in denial of the wrong or refusal to accept responsibility for it by perpetrators or the community, or in victims' exclusion from moral practices of reciprocal accountability. According to Walker, reparative justice must embody the following: acknowledgment that wrong has been done and that the victims suffered insult and harm because of that wrong; acceptance of responsibility for the wrong or for its repair; and the intention to do justice through the reparations. She argues that what is at stake in these requirements is community recognition of victims' moral vulnerability, confirmation that they are entitled to an accounting, and acknowledgment of their moral standing as full participants in accountability relations. The significance of reparations is thus that they serve to restore reciprocal relations of accountability.

Anderson's chapter takes up themes discussed by Mackenzie concerning the relationship between vulnerability and autonomy but broaches them from a different angle. He acknowledges the ways that vulnerability can undermine autonomy, for example by exposing persons to exploitation and domination. However, he also seeks to show that autonomy is a constitutively intersubjective capacity and hence that the realization of autonomy is ineluctably bound up with certain forms of vulnerability. Following Meyers (1989), Anderson

understands autonomy as involving a suite of rational, affective, deliberative, and self-interpretative skills and competences. His discussion identifies two main ways these competences are constitutively intersubjective. First, their development and exercise depend on certain self-affective attitudes, in particular self-trust, self-respect, and self-esteem. These attitudes are not only bound up psychologically with others' attitudes toward us but, more importantly, they can be secured only through the normative pragmatics of mutual recognition. Our autonomy is thus inescapably dependent on and vulnerable to the recognition of others. Second, the exercise of autonomy competence is a social practice, in much the same way that the exercise of linguistic competence is a social practice. Just as we cannot converse with another person unless she recognizes us as having sufficient competence in the language, we also cannot exercise a range of complex autonomy skills unless others recognize us as possessing the relevant skills. The intersubjective nature of autonomy competence thus means that we are vulnerable to social exclusion if we are deemed by others to lack the necessary competences. Anderson acknowledges that some such forms of exclusion are normatively problematic especially given that in complex modern societies individuals are faced with ever-increasing domains of choice and responsibility and thus, to function well, need to have a range of highly developed autonomy skills. Justice therefore imposes a social obligation to reduce autonomy-related vulnerabilities that lead to injustice, domination, disadvantage, and exclusion—by ensuring the social, cultural, and institutional conditions necessary for promoting the development of autonomy skills to the required level. However, above this threshold not all forms of exclusion from demanding autonomy practices need be normatively problematic. Determining where the threshold lies, and therefore what justice demands, is inevitably a contested political issue.

Thompson argues against the view that vulnerability-related obligations must be understood as obligations between contemporaries. She extends the ethics of vulnerability to include obligations to respond to the temporal vulnerability of past and future generations as well as the vulnerability of the very old to younger people and the very young to those who are older. The temporal vulnerability of past and future generations arises from the ways their interests are dependent on the actions of their antecedents and successors. Thompson distinguishes synchronic and diachronic perspectives on being in time to resolve some conceptual difficulties posed by temporal vulnerability. The diachronic perspective treats time as having no fixed point: the present is a "location in a continuum that moves us inexorably into the future." According to Thompson the diachronic perspective can contribute usefully to understanding the vulnerability of both those who are now dead and those who are not yet born. Regarding the dead, the meaningfulness of their lives and their "lifetime-transcending projects" are vulnerable to the actions of their successors, while the welfare and prospects of the yet unborn are vulnerable to the

actions of their predecessors. Thompson extends Scanlon's (1998) moral contractarianism to the issue of temporal vulnerability. She argues that Scanlon's contractarianism can avoid feminist criticisms of Rawlsian social contractarianism as well as Goodin's (1985) critique of contractual voluntarism. Thompson's contribution thus challenges the assumption that an ethics of vulnerability must reject contractarianism.

The essays in the second half of the volume constitute a sustained examination of the interconnections between vulnerability, dependency, and care and investigate a range of issues related to disability, our duties to children, and aged care.

The chapter by Dodds opens the section and provides a detailed analysis of the relationship between the concepts of vulnerability and dependence. In addressing what dependence is, Dodds draws on the taxonomy described in this introduction, arguing that dependence is a specific form of vulnerability requiring personal attention, care, and support by a specific carer or small group of people providing care. To be dependent is to be reliant on the care of another. Care, in this view, is a response to this vulnerability; it is activity undertaken to meet the needs and to support the autonomy of dependents. All humans are dependent at some point in their lives, but they are not all dependent throughout their lives. By contrast, all people are inescapably vulnerable throughout their lives to some inherent and situational sources of vulnerability. Dodds shows that vulnerabilities and dependencies are importantly interrelated and are shaped by the person's capacities and status as well as the context in which they occur. The moral demands of vulnerability and dependency are relational and context dependent. Dodds draws on and extends the work of Goodin (1985), Walker (1998), and Kittay (1995, 1997, 1999) to show that the social and legal practices involved in assignment of responsibility for care of vulnerable people creates dependencies and vulnerabilities that can become pathogenic. She argues, *contra* Kittay, that the concept of dependent personhood is insufficient to protect dependents and their carers against injustice. Instead, she argues that an ethics of vulnerability requires an account of relational autonomy to protect against pathogenic forms of vulnerability. This point is illustrated through consideration of the pathogenic vulnerabilities generated by Australian policies affecting adults with mental illnesses who live in the community.

Scully challenges the widely accepted idea that people living with disabilities are especially vulnerable and that this vulnerability is of a different order than inherent human vulnerability. Taking a sociorelational view of disability, she argues that the vulnerability and related dependency of many disabled people are due to contingent factors rather than any underlying impairment and therefore not an inevitable feature of disability. Nevertheless, as she explains, disability is often or usually equated with dependence and a corresponding lack of autonomy. However, the apparent dichotomy between autonomy and

dependence can be resolved by relational approaches to autonomy that take dependency to be a necessary condition of human existence and both a precursor to and constitutive of personal autonomy. Scully argues that the relationship between dependency and autonomy includes social dependence on the contingent features of our environments that allow many of us to function apparently independently. She notes that the vast majority of people living in the developed world rely on infrastructure such as schools, roads, and taxation systems but that these are normalized and therefore invisible. For example, a wheelchair user's need for ramps and lifts to go about her daily life is seen as a vulnerability; in contrast, persons without disabilities equally need roads and cars to go about their daily lives, but this is neither visible nor taken to be a vulnerability. But just as we share vulnerability through our embodied natures, so, argues Scully, do we share vulnerability through our social nature and dependence upon one another for all of the features of the world that support us in our social lives. By challenging the view that the vulnerabilities and dependencies of people living with disabilities are somehow special, Scully brings into focus our universal social vulnerability.

Children are frequently held to be exemplars of vulnerability, lacking the physical and psychological means to protect themselves and secure their own interests. Three chapters in this volume focus on different issues raised by children's vulnerability. Children are particularly vulnerable when family members who should care for and protect them instead subject them to physical, psychological, emotional, or sexual abuse. Friedman's chapter explores the vulnerability and moral responsibility of abused women who fail to protect their children from the person who is also abusing the mother. She takes vulnerability to be "openness to a specified harm against which one is not fully capable of defending oneself," arguing that living in fear of abuse is a coercive situation that affects the moral agency of the woman involved. The question then arises, in situations of domestic violence in which both mother and children are at risk of harm, what moral responsibilities does the mother bear if she fails to protect her child from harm or fails to secure medical attention for an injured child? Friedman examines exemptions, justifications, and excuses as potential ways of characterizing the moral status of women who fail to protect. She rejects exemption as the correct description, as this would indicate that women in abusive situations lack moral agency altogether. Justification is likewise rejected as she argues that only rarely would failing to protect be the best possible outcome in the situation. Rather, she argues that the vulnerability caused by coercive, abusive relationships can excuse women, where we accept that the act of failing to protect was wrong but understandable if the woman concerned is in fear of serious harm herself.

Lotz's chapter makes a provocative intervention into debates within liberal political philosophy concerning the respective roles of parents and the education system in the inculcation of substantive values in children. Among liberal

theorists it is widely recognized that although parental inculcation of a substantive values framework in their children is crucial for children's developing autonomy, some kinds of values inculcation amount to forms of indoctrination that are not in children's best interests and threaten a child's right to an open future. Liberal theorists have responded to this dilemma by suggesting that while liberal neutrality means that a liberal society must respect parents' rights to impose their values on their children, the state nevertheless has an obligation, via the education system, to equip children with the capacities necessary for citizenship, including those to critically reflect on their (inculcated) values. Lotz proposes that a focus on the child's vulnerability provides a way of reframing this debate. In particular, by highlighting the inequality of power in the parent-child relationship and parents' privileged position in influencing their children's values formation, a focus on children's vulnerability to their parents' actions and choices enables us to see that some forms of values inculcation exploit children's dependency and constitute parental domination. Since relationships of domination ought to be inimical to liberalism, parents' freedom to engage in values inculcation cannot be a right. Rather, it must be understood as a by-product of honoring parents' entitlement to other goods associated with parenting (e.g., familial privacy and intimacy). But this entitlement is constrained by the child's vulnerability and by the requirement of non-domination. It thus entails a commitment to substantive values pluralism in parental values inculcation that precludes *exclusionary* depictions of the parents' value systems and pejorative depictions of competing value systems. This does not mean that parents are not entitled to transmit their values to their child. Instead, good parenting requires that this be done in an inclusive way that enables the child to recognize the legitimacy of other value systems rather than through methods of indoctrination.

Mullin's chapter focuses on the vulnerability of children with respect to having their emotional needs met. Children are vulnerable to emotional neglect when there are failures of care across any of four specified domains, which serve to identify particular vulnerabilities and their potential remedies: protection and security; control and developing autonomy; identification with and belonging to a social group; and reciprocation of the behavior of others. Mullin draws on empirical work in child psychology to support her claim that emotional neglect is associated with greater long-term damage than physical or sexual abuse. She argues that care theory offers a more nuanced way of investigating and responding to emotional maltreatment than responses involving claims about best interests or children's rights. This is because care theory attends to both the needs of those cared for and those providing care, is context sensitive, and is premised on acknowledging vulnerability and the importance of care for survival and well-being. A care theory approach allows us to identify the vulnerability of children's caregivers, caregivers' needs for social support, and inequities in the assignment of caregiving responsibility.

Mullin then offers a critique of different philosophical responses to child protection, such as parent licensing, arguing that none of these provide adequate protection to children who are vulnerable through emotional maltreatment. On her account, a vulnerability-inflected care theory will best protect children against emotional maltreatment by keeping our attention focused on the specific emotional needs of children, the social context in which those needs are addressed, and the needs of both children and caregivers for supportive social relationships.

Vulnerability typically becomes less visible as people leave the dependency of childhood and forge their adult lives. However, the power and control that many people enjoy as adults may recede in old age, as people become increasingly dependent on others for their daily care needs. Providing adequate and decent care for the elderly is a major challenge for governments around the world, and, as Tong describes in her chapter, this is far from being achieved in the United States. Her essay describes the vulnerability of the elderly and the shortcomings of current options for elder care from an American perspective. Many elderly people prefer to be cared for at home, but this can come at a high cost to those who care for them—usually female family members or paid care workers. Both of these options create vulnerabilities for the carers and at times also for the dependents, with both parties at risk of exploitation or abuse. Access to other alternatives such as high quality long-term care in assisted living residences or in skilled nursing homes is very much reliant on private wealth; absent the capacity to pay, the quality of care may be very poor. The result of the current situation is that many elderly people do not have their needs met. Tong then goes on to argue, following Kittay, that as we are all equal in our needs and vulnerability we have a collective responsibility to care for each other. From this Tong develops her claim that eldercare should be a state rather than private responsibility, noting that this shift is unlikely until and unless the gendered nature of care work is challenged and men accept responsibility for their role in ensuring that adequate care is available for all. On her account, the vulnerability of the elderly will be addressed only when there is recognition of the fact that we all exist in “nested” sets of interrelationships, creating collective obligations that are best supported by the state.

Developing an ethics of vulnerability and exploring its implications for moral and political theory, and for social policy, is a complex task. The various topics on which the contributors to this volume focus do not exhaust the scope of philosophical reflection on vulnerability. For example, the concept of vulnerability is relevant to a range of other issues, including global and international justice, animal and environmental ethics, and war and political violence. Nevertheless, the essays collected here significantly contribute to developing an ethics of vulnerability and open up promising avenues for future research.

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{ PART I }

Reflections on Vulnerability

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The Importance of Relational Autonomy and Capabilities for an Ethics of Vulnerability

Catriona Mackenzie

Recent theoretical work on vulnerability seeks to dissociate the concept from negative connotations of victimhood, helplessness, neediness, and pathology, reconceptualizing vulnerability as an ontological condition of our embodied humanity. Yet in much of this work vulnerability is understood in opposition to autonomy. For example, legal theorist Martha Albertson Fineman explicitly contrasts her vulnerable subject model of citizen–state relations with the liberal subject model, which, she claims, is centered on the autonomy “myth”: the idea that persons are self-sufficient, independent, rational contractors. In this chapter I argue that it is a mistake to theorize vulnerability and autonomy in oppositional terms. An adequate ethics of vulnerability must give central place to the obligation not just to respect but also to foster autonomy. Otherwise discourses of vulnerability and protection may open the door to objectionably paternalistic and coercive forms of intervention. Thus, both vulnerability and autonomy must be reconceptualized. My argument proceeds in three steps. First, I demonstrate that, despite the importance of the notion of ontological vulnerability, many forms of vulnerability are caused or exacerbated by social and political structures. We therefore need a taxonomy of different sources and states of vulnerability, which enables a finer-grained analysis of both its ontological and its context-specific dimensions. Second, I show that if autonomy is understood relationally then the apparent opposition between responding to vulnerability and promoting autonomy dissolves; moreover, duties of protection to mitigate vulnerability must be informed by the overall background aim of fostering autonomy whenever possible. Finally, I argue that the obligation to foster autonomy is a matter of social justice and that capabilities theory provides the most promising theoretical framework for articulating this claim and for promoting democratic equality.

At first glance the concepts of vulnerability and autonomy seem to be opposed. Vulnerability is often defined as being at increased risk of harm or having

reduced capacity or power to protect one's interests. It can also connote neediness, dependence, victimhood, or helplessness. Autonomy, on the other hand, is often associated with ideals of substantive independence and self-determination. In her work on vulnerability, legal theorist Martha Albertson Fineman (2008, 2010) seeks to rethink the concept of vulnerability, dissociating it from these negative connotations by emphasizing that vulnerability is an ontological condition of our embodied humanity. However, she continues to treat vulnerability and autonomy as oppositional concepts, suggesting that there is a tension between responding to human vulnerability and promoting autonomy. Thus, she contrasts her *vulnerable subject* model of citizen–state relations with the *liberal subject* model, which, she claims, is centered on the “myth” of autonomy—that is, on a flawed conception of persons as self-interested, independent, rational contractors. Whereas the liberal subject model and the autonomy myth thwart the development of social, legal, and institutional structures to redress disadvantage, and thereby sanction gross social and political inequality, the vulnerable subject model puts the onus on state institutions to respond to human vulnerability and thereby promotes democratic equality.

The aim of this chapter is to argue for two main claims. First, it is a mistake to theorize vulnerability and autonomy as oppositional. I agree with Fineman (2008, 2010) that an important role of well-functioning state institutions is to respond to unavoidable human vulnerabilities. However, theorists of vulnerability need to be alert to the danger that notions of vulnerability and protection can be, and historically have been, used to justify coercive or objectionably paternalistic social relations, policies, and institutions, which often function to compound rather than ameliorate the vulnerability of the persons or groups they are designed to assist. This is one reason why in my view, an adequate account of the moral obligations arising from vulnerability must give central place to the obligation not just to respect but also to promote autonomy.

Second, I argue that the obligation to respond to vulnerability by promoting autonomy is a matter of social justice and that the capabilities approach to justice provides the most promising theoretical framework for articulating this claim and for fostering democratic equality. A just and democratically egalitarian society must do more than protect its citizens from unavoidable human vulnerabilities; it must develop social, economic, legal, and political institutions that help to foster the development of the autonomy competences and capabilities “necessary for functioning as an equal citizen in a democratic state” (Anderson 1999, p. 316).

The argument for the first claim is developed in Sections 1 and 2; the argument for the second claim is developed in Section 3. In Section 1, I briefly outline Fineman's (2008, 2010) analysis of the vulnerable subject. I argue that while Fineman is right to draw attention to the universality of embodied vulnerability, her analysis pays insufficient attention to the different sources and kinds of vulnerability, particularly to the way that social, political, legal, and

economic structures can cause or exacerbate vulnerability.¹ I demonstrate, in contrast, that distinguishing inherent, situational, and pathogenic sources of vulnerability and states of occurrent and dispositional vulnerability enables a finer-grained analysis. This makes it easier to separate unavoidable human vulnerabilities from those vulnerabilities that are the product of remediable social injustices, oppression, domination, and inequality.²

In Section 2, I start from the premise that the lesson to be learned from acknowledging the moral significance of vulnerability is not that the value of autonomy should be rejected but rather that prevailing cultural conceptions of autonomy as self-sufficient independence are misguided. I argue that if autonomy is understood relationally then the apparent opposition between responding to vulnerability and promoting autonomy dissolves.³ Indeed, from the perspective of a relational account of autonomy, although the duties arising from vulnerability include protection from harm, the duty to protect must be informed by the overall background aim of enabling the development of, or fostering, autonomy whenever possible. Otherwise vulnerability may be used to sanction unwarranted paternalistic forms of intervention.

In the third section I argue that responding to vulnerability by promoting autonomy is a matter of social justice and that the justice obligations arising from vulnerability are best understood in terms of capabilities theory.⁴ I focus in particular on Elizabeth Anderson's (1999, 2010) capability-based theory of democratic equality, suggesting that it provides a stronger foundation for explaining these obligations than Fineman's (2008, 2010) vulnerable subject model. I also draw out the conceptual connections between Anderson's theory of democratic equality and relational theories of autonomy.

1. Theorizing Vulnerability

In a series of recent articles, Martha Fineman (2008, 2010) proposes a *vulnerability analysis* of citizen–state relations. There are two main facets to this analysis. First, Fineman suggests that the concept of vulnerability can serve a heuristic function, drawing attention to the ways profound social inequality and disadvantage cut across conventional identity categories, such as race, gender, ethnicity, or sexual orientation. Attention to vulnerability thus highlights the inadequacy of the remedies used by liberal states to ensure substantive equality, such as formal legal equality of opportunity provisions and

¹ Ben-Ishai (2012b) develops a related argument concerning Fineman's analysis of vulnerability.

² For related discussions of these distinctions, see Rogers, Mackenzie, and Dodds (2012), the Introduction to this volume, and chapter 7 by Dodds.

³ For an overview of relational approaches to autonomy see Mackenzie and Stoljar (2000).

⁴ For classic statements of capabilities theory, see especially Sen (1992, 2009) and Nussbaum (2000, 2011).

antidiscrimination law. Although discrimination on the basis of gender, race, ethnicity, or sexuality is an important source of social inequality and disadvantage, she argues that an exclusive focus on identity-based discrimination deflects attention from broader questions concerning distributive justice and from other sources of disadvantage, such as poverty, disability, or mental illness. Fineman thus regards the vulnerable subject model as a “post-identity” analysis of the justice obligations owed to citizens (2010, p. 275).

A focus on vulnerability also helps to reveal hidden assumptions embedded in legal, cultural, social, and economic practices—in particular, a cluster of assumptions about citizen–state relations embedded in the construct of the *liberal subject*. This construct is centered on a misleading conception of citizens as autonomous, self-sufficient, and independent, which is difficult to reconcile with the facts of human dependency and vulnerability. The construct also supports a noninterventionist, antiregulatory view of state responsibility, which represents state assistance in the form of social welfare, health-care provision, support for education, and redistributive taxation policies as constraints on individual freedom.

Second, in contrast to the liberal subject model, which gives priority to the value of autonomy, the vulnerable subject model gives priority to the value of equality, thereby enabling a reconceptualization of state responsibility and of what we owe to one another as citizens. Fineman’s (2010) conception of the vulnerable subject is premised on three main claims: vulnerability is a universal, inevitable, condition of our embodied humanity; whereas dependency is intermittent, vulnerability is a constant feature of the human condition, arising from our embodiment, “which carries with it the imminent or ever-present possibility of harm, injury, and misfortune” (p. 267); and, while universal, vulnerability is also context specific and particular, experienced differently by each individual depending on her unique embodiment and situation. Whereas the rhetoric of autonomy supports a noninterventionist state, the vulnerable subject model refocuses our conception of state responsibility. The role of state institutions is to provide protection from the vicissitudes of fortune, “collectively forming systems that play an important role in lessening, ameliorating, and compensating for vulnerability” (p. 269). Such systems cannot make us *invulnerable*, but they provide us with resources that promote *resilience*. A vulnerability analysis draws attention to inequalities in the distribution of these resources, which make some citizens more vulnerable to the vicissitudes of fortune than others, and supports redistributive and regulatory mechanisms that lessen disadvantage and promote democratic equality.

I am very sympathetic to Fineman’s (2008, 2010) critique of the rhetoric of individual freedom, personal responsibility, and the minimal state and its impact on the opportunities and lives of the disadvantaged.⁵ I also support

⁵ For a similar critique of this rhetoric, see Mackenzie (2010a, 2010b).

her call for the need for responsive institutions organized around recognition of state responsibility for redressing disadvantage, ameliorating vulnerability, and promoting substantive equality. There are several aspects of Fineman's argument, however, which require more detailed specification or with which I disagree: her analysis of vulnerability; her conflation of autonomy with a *libertarian* conception of autonomy; and the lack of specificity in her analysis of justice and equality. The substance of these disagreements will be discussed sequentially, in this section and in Sections 2 and 3, in the context of my alternative analysis of the relationships among vulnerability, autonomy, and justice.

Fineman's (2008, 2010) analysis of vulnerability as a condition of our embodied humanity resonates with similar claims made by other theorists, such as Judith Butler (2004, 2009) and Bryan S. Turner (2006), who ground vulnerability in our corporeality. I agree with these theorists that vulnerability is inherent to the human condition and arises from our embodied, social, and affective natures. I am also sympathetic to some of the concerns that motivate and underpin Fineman's universalist approach to vulnerability. One is the feminist concern, articulated most forcefully by Eva Kittay (1999), to counter the dominance of social contract discourse. Like Kittay, Fineman argues that social contract theories of justice overlook the inescapable fact of human dependency and fail to account for our social obligations to care for dependents and their carers.⁶ Another concern is to promote social solidarity by dissociating vulnerability from its connotations of especial helplessness, neediness, and victimhood and by reminding us that we are all vulnerable. This refiguring of the concept of vulnerability marks an important contrast with recent trends in social policy to identify certain populations or subgroups as especially vulnerable and therefore as a target for specific interventions.⁷ The reminder that vulnerability and dependence are inherent to the human condition is valuable because it unsettles the contrast, implicit in such policy discourses, between the vulnerable "others" who must be protected and all other citizens who are represented as somehow invulnerable.

A problem with Fineman's (2008, 2010) analysis, however, is that it gives too much weight to unavoidable ontological vulnerabilities arising from

⁶ See also Nussbaum (2006). For more detailed discussion see chapter 7 by Dodds.

⁷ As I discuss in the text that follows, I think interventions designed to ameliorate specific vulnerabilities can be justified (and are in fact obligatory) if appropriately guided by the aim of promoting autonomy and fostering capabilities. Nevertheless, it is important to be alert to the way that policy discourses of vulnerability and protection that single out certain social groups as especially vulnerable can be used to justify objectionably paternalistic and sometimes coercive forms of intervention. The recent wave of "new paternalist" social policy interventions in Australia and the United Kingdom are examples. In Australia, the 2007 Northern Territory National Emergency Response Act invokes the vulnerability of children in remote indigenous communities to justify coercive forms of state paternalism and intervention. For a nuanced critique, see Altman (2010). For a critical discussion of the construction of the "vulnerable adult" in relation to mental capacity assessments in UK public policy and law, see Dunn, Clare & Holland (2008).

biological processes, such as illness and aging, and to bodily harms and misfortunes, whether these are the result of environmental forces or human actions. Fineman does acknowledge that corporeal, biological vulnerability can give rise to, and be compounded by, social and economic harms. She also acknowledges that the extent to which an individual may suffer these compounded harms depends on the various resources—physical, human, social, and environmental—available to her. This is why vulnerability is also context specific and is experienced and manifested differently in different individuals. Nevertheless, our human embodiment remains the primary source of vulnerability on Fineman's analysis.

The difficulty with this assumption is that many kinds of vulnerability are primarily the result not of unavoidable biological processes but of interpersonal and social relationships or economic, legal, and political structures. As Robert Goodin (1985) argues, "Any dependency or vulnerability is arguably created, shaped, or sustained, at least in part, by existing social arrangements. None is wholly natural" (p. 191). For example, an asylum seeker incarcerated in a detention center is vulnerable to mental illness, but the sources of his vulnerability are his political status and social circumstances. A woman at the receiving end of domestic violence is vulnerable to a range of physical and psychological harms, but the source of her vulnerability is not primarily her inherent corporeal vulnerability but her relationship with an abusive partner. And the extent of her vulnerability will be determined by the social supports and legal protections available to her. Although Fineman (2008, 2010) wants to account for the way such factors can compound vulnerability, her universalist analysis and her claim that vulnerability is a constant feature of the human condition obscure important distinctions between different sources and states of vulnerability.

In what follows, I demonstrate that a taxonomy of different sources and states of vulnerability enables a finer-grained analysis of the sense in which vulnerability is both an ontological condition of our humanity and context specific.⁸ It also highlights the role of social and political structures in generating some kinds of vulnerability. *Inherent* sources of vulnerability are intrinsic to the human condition. These vulnerabilities arise from our embodiment, our inescapable human needs, and our inevitable dependence on others. While some of these vulnerabilities are constant, others vary depending on a range of factors, such as age, gender, health status, and disability. The notion of inherent vulnerability, like Fineman's (2008, 2010) notion of universal human vulnerability, implies that some kinds of vulnerability are ineradicable and hence that even ideally just social and political institutions would not

⁸ In this analysis, I apply the taxonomy of vulnerability developed in Rogers, Mackenzie, and Dodds (2012) and in the introduction to this volume.

eliminate them. What we should expect of a just society is that its social and political structures are responsive to and seek to mitigate the effects of inherent vulnerabilities, ensuring that their burdens do not fall disproportionately on the disadvantaged. Examples include universal health care and robust social welfare support, such as adequate public housing, disability insurance, income support for single parents, and subsidized high-quality child care.

Situational vulnerability is context specific and is caused or exacerbated by social, political, economic, or environmental factors; it may be short term, intermittent, or enduring.⁹ For example, a person who has just lost his job is situationally vulnerable. This vulnerability may be short-lived if he has educational qualifications and skills that are in demand in the marketplace. But if the loss of a job leads to long-term unemployment, his vulnerability may be enduring and its consequences quite catastrophic, resulting not only in loss of income but also possibly loss of secure housing, marital breakdown, and ill health. The distinction between inherent and situational vulnerability is not categorical, as these two sources of vulnerability can be causally interconnected. Situational vulnerability can give rise to inherent vulnerability; for example, the stresses of unemployment can lead to ill health. And some kinds of inherent vulnerability will render people more liable to situational vulnerability; for example, a person with a cognitive disability is more likely to experience situational vulnerability due to limited employment opportunities or insecure housing. Furthermore, both inherent and situational vulnerability can be *dispositional* or *occurrent*. The dispositional–occurrent distinction enables us to determine whether an identifiable vulnerability is potential or actual and to distinguish vulnerabilities that are not yet or not likely to become sources of harm from those that place a person at imminent risk of harm.

Pathogenic vulnerability is a subset of situational vulnerability and functions as a way of identifying what Goodin (1985) refers to as “all those morally unacceptable vulnerabilities and dependencies which we should, but have not yet managed to, eliminate” (p. 203). These include vulnerabilities arising from prejudice or abuse in interpersonal relationships and from social domination, oppression, or political violence. The notion of pathogenic vulnerability also helps to identify the way that some interventions designed to ameliorate inherent or situational vulnerability can have the paradoxical effect of increasing vulnerability.

Applying these distinctions to the hypothetical case of an asylum seeker in a detention center, call him Ali, we can see that the source of his vulnerability is

⁹ For a related taxonomy, distinguishing between inherent and situational vulnerability, see Dunn, Clare & Holland (2008) and Rogers and Ballantyne (2008), who distinguish intrinsic and extrinsic sources of vulnerability.

primarily situational, rather than inherent, although his innate resilience and baseline physical and mental health will have inherent elements. The sources of this situational vulnerability are multiple and may include being subject to ethnic or political persecution; profound grief caused by loss of, or separation from, family; posttraumatic stress; incarceration and possibly disrespectful treatment by authorities; being in an alien environment; and extreme anxiety caused by uncertainty about the future. The notion of pathogenic vulnerability provides a powerful conceptual tool for highlighting the fact that many of the sources of Ali's situational vulnerability arise from social injustice of various kinds, in particular the political persecution from which he originally fled and the government policies in the country of asylum that, rather than ameliorating his social and political vulnerability, compound it, in the process giving rise to new vulnerabilities such as those associated with mental illness. If Ali is actually suffering from mental illness, then his vulnerability to mental illness is occurrent. If not, then his vulnerability to mental illness is dispositional. But the notion of dispositional vulnerability is useful for identifying how detention gives rise to particular risks of harm, whether or not these are actually occurrent.¹⁰

In addition to analyzing vulnerability, a theory of vulnerability should also identify the obligations involved in responding to vulnerability and the agents or institutions that bear primary responsibility for discharging these obligations. The kinds of obligation identified most frequently in discussions of vulnerability include meeting needs, providing appropriate care, minimizing the risks of harm, and avoiding exploitation.¹¹ I concur that these are some of the important duties owed to vulnerable persons. However, unless our understanding of what these duties involve, and how and by whom they are best met, is guided whenever possible by the overall aim of fostering autonomy and promoting capabilities, then interventions to protect the vulnerable may at best be inadequate and at worst may compound vulnerability or create new forms of pathogenic vulnerability. This is one reason why it is a mistake to suggest, as Fineman (2008, 2010) does, that there is a tension between responding to human vulnerability and promoting autonomy. Another reason is that there is no inherent tension between an adequately theorized conception of autonomy,

¹⁰ As discussed in the introduction to this volume, there is some overlap between the concept of pathogenic vulnerability and Turner's (2006) concept of *institutional precariousness* in relation to human rights protections.

¹¹ See also Rogers, Mackenzie, and Dodds (2012). For a discussion of the obligation to meet needs and respond to vulnerability by providing care, see Miller (2005, 2012). For analyses of the links between vulnerability and exploitation, see Goodin (1985) and Wood (1995). For analyses of vulnerability and exploitation in the context of human subjects research, see Macklin (2003), Hurst (2008), and Lange, Rogers, and Dodds (2013). For discussions of the complexities of assigning responsibilities to ameliorate vulnerability see Walker (1998, Chapter 4) and chapter 7 by Dodds.

which is premised on a conception of the self as relational and acknowledgment of universal vulnerability.

2. Rethinking Autonomy and Protection

I agree with Fineman (2008, 2010) that the rhetoric of individual autonomy, personal responsibility, and the minimal state often functions to mask social injustice, structural inequality, and corrosive disadvantage¹² and that it shifts the onus of responsibility for redressing these problems away from the state and onto individuals (Mackenzie 2010a). I also agree that the *libertarian* conception of autonomy associated with this rhetoric should be rejected. However, in my view autonomy—understood as both the *capacity* to lead a self-determining life and the *status* of being recognized as an autonomous agent by others—is crucial for a flourishing life in contemporary liberal democratic societies.¹³ It is thus a mistake for an ethics of vulnerability to reject either the concept of autonomy or its importance for achieving democratic equality.

In places Fineman (2010) seems to acknowledge this fact, suggesting that “a commitment to equality should not be seen as diminishing the possibilities for autonomy. In fact, if we desire a society in which a great number of individuals can exercise autonomy, not only those who have been historically privileged, society must be built on a foundation of equality” (p. 260). She also gestures in the direction of a relational approach to autonomy. Thus, she suggests that autonomy should not “be confused with isolation or separation from society” (p. 260) but rather involves social and reciprocal duties to others and that “as desirable as autonomy is as an aspiration, it cannot be attained without an underlying provision of substantial assistance, subsidy and support from society and its institutions, which give individuals the resources they need to create options and to make choices” (ibid.). However, Fineman does not develop this line of argument, nor does she call on the resources of relational autonomy to assist her in doing so. In what follows I show, first, that if autonomy is understood relationally then the apparent opposition between responding to vulnerability and promoting autonomy dissolves and, second, that duties of protection to mitigate vulnerability must be informed by the overall background aim of fostering autonomy whenever possible.

Relational theories aim to develop a theoretical framework for understanding autonomy that does justice to three main convictions. First, the capacity to

¹² I borrow this terminology from Wolff and De-Shalit (2007).

¹³ For detailed discussions of the importance of autonomy for liberal democratic citizenship, see Christman (2009) and the essays in Christman and Anderson (2005).

exercise some degree of self-determination is crucial for leading a flourishing life. Second, the development and sustained exercise of this capacity requires extensive and ongoing interpersonal, social, and institutional scaffolding and can be thwarted by social domination, oppression, and disadvantage. Third, such thwarting constitutes social injustice; therefore, the state has an obligation to develop social, political, and legal institutions that foster citizen autonomy.¹⁴

The first conviction is based on the idea that as human agents we have a profound interest in leading a life that expresses our distinctly human capacities for choice and self-reflection and in which we are able to exercise these capacities in line with our beliefs, values, goals, wants, and self-identity. This conviction is, of course, a central and widely shared tenet of liberalism, but it is subject to markedly different interpretations. Fineman's (2008, 2010) vulnerability analysis, as we have seen, rightly targets the libertarian interpretation, which equates the exercise of self-determination with rugged individualism, negative liberty, and maximal freedom of choice. Relational theorists argue, however, that it is a mistake for feminists to reject autonomy tout court, given the importance of self-determination not only for women but also for any person or group subject to social domination and oppression. Relational approaches thus uphold the value of individual autonomy while eschewing the individualism associated with some liberal and especially libertarian conceptions of autonomy.¹⁵

This rejection of individualism¹⁶ underpins the second conviction. In explaining the role of social scaffolding in enabling autonomy, relational theorists draw attention to a range of factors, including the social conditions for the development of autonomy competence, the social constitution of our self-identities, the social contexts of choice, and the phenomenon of adaptive preference formation.

Autonomy involves the exercise of an array of skills and capacities: cognitive capacities, such as reasoning skills and the ability to understand and process information; capacities to question and reflect critically on social norms and values; introspective skills necessary for self-reflection and self-knowledge; emotional and affective capacities required for sustaining intimate personal relationships and for social cooperation; and imaginative capacities necessary

¹⁴ Relational autonomy is an umbrella term, and different theorists elaborate and justify these convictions in different ways. I cannot discuss these theoretical differences in any detail here, but I will signal them where relevant for clarifying my own position.

¹⁵ For further discussion, see Mackenzie and Stoljar (2000).

¹⁶ A clarification is in order here. In my view, as should already be clear, relational autonomy is committed to a form of normative individualism—that is, to the view that the welfare, rights, dignity, and autonomy of individuals matter. However, as should be clear from the text that follows, relational autonomy is also committed to a social ontology of persons—that is, a conception of persons that emphasizes the role of embodied social practices (including linguistic and cultural practices), social group identities, and historical contingencies, in the formation of our individual practical identities.

for envisaging alternative courses of action.¹⁷ Relational theorists claim that these autonomy competencies emerge developmentally and are sustained and exercised in the context of significant social relationships and, hence, that such relationships are necessary background enabling conditions for autonomy. This explains why, on a relational view, there need be no inconsistency between autonomy and interpersonal relationships of dependence and interdependence. Relational theorists nevertheless argue that some social relationships and environments provide hostile conditions for autonomy. Environments characterized by corrosive disadvantage (social, political, economic, educational) or social relationships characterized by abuse, coercion, violence, or disrespect may seriously thwart the development of many of the skills and competences required for self-determination or may constrain their exercise.¹⁸

Autonomy theorists generally concur that to be autonomous is to be able to make choices and act in line with one's reflectively endorsed beliefs, values, goals, wants, and self-identity.¹⁹ But relational theorists stress that neither our choices nor these aspects of the self are *sui generis*; rather, they are shaped and constrained by the social relationships and environments in which we are embedded. We form, sustain, and revise our self-identities in relational connections to specific others, and we negotiate our sense of individual selfhood in a specific geographical, historical, and political context and in relation to intersecting social determinants, such as gender, race, ethnicity, ability, and class.²⁰ These factors provide the context for our choices, which are both enabled and constrained by the opportunities made available within the social environment. In drawing attention to the social constitution of the self and the social contexts of choice, relational theorists are particularly concerned with highlighting the effects of social relations of domination, oppression, and exclusion on individuals' self-conceptions, opportunities, capacities, and choices.²¹

Libertarians equate autonomy with minimally constrained freedom of choice and pay little heed to the background social conditions in which preferences are formed. In contrast, of particular salience for many relational theorists is the phenomenon of adaptive preference formation—the phenomenon whereby persons who are subject to social domination or who suffer corrosive disadvantage adapt their preferences (or goals) to their circumstances, eliminating or failing to form preferences (or goals) that cannot be satisfied and even failing to conceive how their preferences might differ in different

¹⁷ For more detailed discussion of these competencies, see Meyers (1989), Friedman (2003), and Christman (2009).

¹⁸ For detailed discussion see especially Friedman (1997, 2000, 2003). See also chapters 9 by Friedman, 10 by Lotz, and 11 by Mullin.

¹⁹ Christman (2009) refers to these as authenticity conditions for autonomy.

²⁰ See, for example, Meyers (2000), Oshana (2005), and Christman (2009).

²¹ See, for example, Mackenzie (2010a, 2010b).

circumstances.²² For example, a child growing up in circumstances of socioeconomic and educational disadvantage in a household in which formal learning is not valued may have little conception of the kinds of options that education would make available to him. While relational theorists agree with libertarians that there is an important connection between choice and autonomy and that constrained option sets can compromise a person's ability to lead a flourishing, self-determining life, they argue that what matters for autonomy is the range of significant options available to a person or social group.²³ Thus, if we are interested in promoting autonomy we need to be concerned not with the mere proliferation of choice but with how opportunities are socially distributed and with whether people have an adequate range of genuine and significant options available to them. Autonomy, on this view, thus requires substantive, not merely formal, equality of opportunity.²⁴

In addition to highlighting the relational and social scaffolding necessary for autonomy, some relational theorists claim that autonomy is both a *capacity* and a *status* concept and that these two dimensions of autonomy are intertwined. To lead a self-determining life requires not just having the capacities and opportunities to do so but also regarding oneself, and being recognized by others, as having the social *status* of an autonomous agent.²⁵ Because this *status* dimension of autonomy is constituted intersubjectively in social relations of recognition, it is vulnerable to others' failures, or refusals, to grant us appropriate recognition in a range of different spheres: for example, in our interpersonal relations; at work and in the institutions of civil society; and as citizens who are both protected by and subject to the institutions of the state.

Such failures of recognition are quite typical in social relations involving domination, or inequalities of power, authority, or social and economic status, especially when these are inflected by gender, race, ethnicity, or disability. Relational theorists claim that the internalization of non- or misrecognition

²² For the original formulation of the problem of adaptive preference formation, see Elster (1983). See also Sen (1992). For discussions in the literature on relational autonomy concerning the formation of distorted preferences, beliefs, and values in contexts of oppression, see especially Benson (1991), Oshana (1998, 2006), Stoljar (2000), and Superson (2005). For a critique of the use of the concept of adaptive preferences by relational theorists, see Khader (2011). For a detailed analysis of the concept of adaptive preferences and its relevance for relational autonomy that also responds to Khader's critique see Stoljar (forthcoming).

²³ See also Raz (1986) on the importance of significant options for autonomy.

²⁴ As I explain in Section 3, in my view capabilities theory provides the most promising analysis of the substantive equality of opportunity conditions required for autonomy and best complements relational approaches to autonomy. For a related discussion of this claim see Mackenzie (forthcoming).

²⁵ Relational theorists who highlight the status dimensions of autonomy thus hold that autonomy is not only causally but also constitutively relational. This claim has been understood in a number of different ways in the literature. For different variants see Anderson and Honneth (2005), Benson (2005a, 2005b), Mackenzie (2008), McLeod (2002), Oshana (2006), and Westlund (2009). The discussion in the text that follows draws on Anderson and Honneth (2005) and Mackenzie (2008).

can corrode the self-affective attitudes of self-respect, self-trust, and self-esteem that underpin one's sense of oneself as an autonomous agent.²⁶ For example, unless he is incredibly resilient, an employee who is subject to constant racial abuse by his boss and coworkers is likely to find it very difficult, at least at work, to maintain these self-affective attitudes. This kind of misrecognition is one source of pathogenic vulnerability.

The third conviction of relational theorists is that because self-determination is crucial for a flourishing life, social conditions that thwart the development or exercise of autonomy competence, that hinder genuine equality of access to a range of significant options, or that sanction social relations of misrecognition are unjust. A socially just state therefore has an obligation to develop social, political, and legal institutions that foster citizen autonomy.²⁷ Of course the state cannot (and ought not) require that citizens always exercise their autonomy well or wisely or that they make use of all the significant options available to them. Nor can the state guarantee that relations among citizens will always involve mutual recognition. A just state is, however, obliged to foster an autonomy-supporting culture and to ensure that social institutions—including the family, educational institutions, businesses, and social clubs—provide access to the resources and opportunities and support the kinds of social relationships that promote autonomy.

It should be clear from the foregoing analysis that relational approaches to autonomy start from some of the same premises and are motivated by some of the same concerns as Fineman's (2008, 2010) vulnerability analysis of citizen-state relations. However, it should also be clear that there is no inconsistency between acknowledging the fact of universal human vulnerability and recognizing our normative obligations to respond to vulnerability, on one hand, and upholding the importance of autonomy, understood relationally, on the other. In fact, the obligation to respect and promote autonomy must be central to the normative obligations arising from vulnerability and, whenever possible, must be a guiding aim of interventions designed to mitigate vulnerability and enhance resilience.

There are two main reasons why responses to vulnerability should be guided by the value of autonomy: first, to counter the sense of powerlessness and loss of agency that is often associated with vulnerability; and second, to counter the risks of objectionable paternalism. A common thread linking the three different kinds of vulnerability distinguished in Section 1—inherent, situational, and pathogenic—is that they can engender a troubling sense of powerlessness, loss of control, or loss of agency. The descriptor *vulnerable* can be used to refer to two dimensions of vulnerability: the objective features of a person's

²⁶ For a sophisticated development of this claim, see chapter 5 by Anderson.

²⁷ For a detailed argument to this effect in relation to social service policy and delivery, see Ben-Ishai (2012a).

inherent condition or situation that make her susceptible to various harms or to exploitation; and her subjective experience of vulnerability.²⁸ These two dimensions need not always correlate exactly. A person whose inherent condition or situation may seem to place her at risk of harm or exploitation may not subjectively experience herself as vulnerable, perhaps because she has access to material resources or social supports that promote resilience. Nevertheless, because these two dimensions of vulnerability are usually interlinked, it is crucial that interventions designed to mitigate specific vulnerabilities address not only their objective but also subjective dimensions. In particular, such interventions must aim to restore, wherever possible, the vulnerable person's sense of herself as an autonomous agent, with significant options open to her, and the capacity (with social support) to act to realize her choices.²⁹ A key feature of pathogenic responses to vulnerability is that rather than enabling a person's autonomy they compound this sense of powerlessness and loss of agency and render her susceptible to new or different harms. The example of Ali discussed earlier provides a vivid illustration of the kind of downward spiral that can result from interventions with this compounding effect.

It is important to acknowledge that in some situations, such as incapacitating illness, this sense of powerlessness cannot necessarily be remediated, nor is it always possible to restore or enable agency, for example, if the vulnerable person has a profound cognitive impairment.³⁰ In such situations, responses to vulnerability should focus primarily on meeting the person's physical, social, and affective needs and providing appropriate care rather than on fostering agency. There are also situations where temporary occurrent vulnerability may impair a person's capacities for agency to such an extent that she may not be able to identify her own needs correctly and work out how best to meet them or may not be able to make self-determining choices. A person suffering from serious depression or episodic psychotic illness, for example, may be incapacitated in just these ways. However, in such cases the overall background aim of responding to vulnerability ought to be to restore the person's capacities for, and sense of, agency.

The second reason why responses to vulnerability should be guided by the aim of restoring or promoting autonomy, to the extent possible, is that notions of vulnerability and protection risk opening the door to objectionably

²⁸ These two dimensions of vulnerability, referred to as *etic* and *emic*, have been discussed in the literature on vulnerability in nursing and patient care. See Sellman (2005) and Spiers (2000). See also Dunn, Clare & Holland (2008), who take up this distinction arguing that recent UK legal and social policy responses to vulnerability focus entirely on the objective, risk-related dimensions of vulnerability but ignore its subjective dimensions.

²⁹ Miller (2012) develops a similar argument. For further discussion see the introduction to this volume.

³⁰ On vulnerability and illness see Hoffmaster (2006). On cognitive impairment and the limits of remediation, see Kittay (2011) and further discussion in chapter 7 by Dodds.

paternalistic social policy interventions that may generate pathogenic forms of vulnerability. Paternalism is usually defined as coercive interference with individual liberty to protect or promote the person's welfare, good, happiness, needs, interests, or values. Many philosophers, following Mill, claim that paternalism is justifiable only to protect a person from serious physical harm and if they have impaired capacity or are manifestly irrational.³¹ As Marion Smiley (1989) argues, however, this conception of paternalism conflates restricting liberty with violating liberty, making it difficult to justify any forms of universal protective state legislation, regulation, and intervention or to distinguish justifiable forms of state protection from objectionably paternalistic forms of protection.³² Moreover, it overlooks the most crucial feature of paternalism, namely, that it expresses or perpetuates relationships of domination and inequality among members of a community or between the state and citizens.

Smiley (1989) proposes that justifiable, nonpaternalistic forms of protection (e.g., regulations or social policy interventions) must meet several criteria: they must have sufficiently widespread support among citizens to be considered self-imposed; they must apply to all citizens, not just targeted individuals or social groups; they must create the conditions for the exercise of individual freedom; and the government officials who develop and implement these interventions must be held publicly accountable. In any democratic political community there will inevitably be contestation about whether new or proposed forms of protection satisfy these criteria. Nevertheless, these criteria and the idea that paternalistic forms of intervention express or perpetuate relationships of domination and inequality among members of a community or between the state and citizens help to clarify what makes some interventions to mitigate vulnerability objectionably paternalistic.

Interventions that target specific groups identified as vulnerable and subject them to restrictions or forms of surveillance not applied to the rest of the community, that treat persons who are so targeted as incompetent and deviant or that marginalize and socially exclude them, that do not consult with members of those groups in the formulation of policy or engage their participation in its implementation, and that are primarily focused on reducing perceived risks to society rather than concerned with fostering autonomy count as objectionably paternalistic. Such forms of so-called protection express relationships of domination and inequality among citizens or between the state and targeted groups of citizens. They involve a failure to recognize the persons who are the target of such interventions as having the *status* of autonomous agents,

³¹ See, for example, Dworkin (1988) and Feinberg (1989).

³² For a related discussion, also drawing on Smiley's analysis of paternalism, see Ben-Ishai (2012a, Chapter 3).

increasing their sense of powerlessness or loss of agency or fueling resentment and alienation and thus creating pathogenic forms of vulnerability.

One reason why Fineman (2008) appeals to universal vulnerability and social solidarity is to avoid this kind of identification and targeting of certain groups as “vulnerable” and the associated connotations of vulnerability with “victimhood, deprivation, dependency, or pathology” (p. 8). However, as noted already, Fineman’s notion of universal vulnerability obscures the differences between different sources and states of vulnerability and hence the different ways people may be vulnerable. Just social policies must provide targeted responses to these specific vulnerabilities. This section shows why they must do so in ways that respect and promote autonomy and avoid objectionable paternalism. The following section draws on capabilities theory to show why the obligation to ameliorate specific vulnerabilities in a way that fosters autonomy is a matter of social justice.

3. Vulnerability, Capabilities, and Justice

The central aim of Fineman’s (2008, 2010) vulnerability analysis is to argue that the state has an obligation to secure the social conditions for substantive equality of access and opportunity. Egalitarian political philosophers would agree with this claim but hold a range of different views about what substantive equality means and hence provide a range of different answers to the question “Equality of what?” Fineman’s answer to this question is unclear, as she sometimes refers to equality of access to resources, sometimes to equality of standing, and occasionally to capabilities.³³ I endorse capabilities theory’s answer to the question and demonstrate its conceptual connections with relational approaches to autonomy and its importance for an ethics of vulnerability. I begin by outlining some of the central theoretical claims of capabilities theory, as originally developed by Sen (1992, 2009) and Nussbaum (2000, 2006, 2011).³⁴ I then discuss Elizabeth Anderson’s theory of democratic equality, which uses a capabilities framework to theorize the concept of substantive equality and to provide a sufficientarian (or threshold) account of the responsibilities of a democratic state toward its citizens and of what we owe to one another as citizens.³⁵

³³ For brief references to capabilities see Fineman (2010, p. 274) and Fineman (2008, p. 14), where she criticizes Nussbaum’s account of capabilities as potentially sanctioning discriminatory treatment of people with disabilities.

³⁴ It is beyond the scope of my discussion in this chapter to discuss in any detail the differences between Sen’s and Nussbaum’s version of capabilities theory. For a detailed discussion of this issue, see Nussbaum (2011, pp. 69–76).

³⁵ See Anderson (1999; 2010).

Sen (1992, 2009) argues that the focal variable or relevant metric for answering the question “Equality of what?” should be equality of “capabilities to achieve functionings” rather than resources.³⁶ In his view, although resources are necessary *means* to well-being and freedom, the resources available to a person are not adequate measures of the extent of her advantage or disadvantage, that is, of what she is actually able to be and to do in her life and of the real opportunities available to her. Sen thus distinguishes two components of individual well-being: functionings and capabilities. Functionings represent the various things a person is able to be and do, or the different, interrelated aspects of well-being—for example, being physically and mentally healthy, educated, safe, well-nourished, happy, respected, a participant in the social and political life of her community. Capabilities measure the extent of a person’s substantive freedom (the opportunities and choices that are actually available to her) to achieve valuable functionings.³⁷ A person’s *capability set* includes both her achieved functionings (what she can do and the options she has actually chosen) plus the other combinations of functionings available to her. For example, a tertiary education is included within the capability set of a person who had the opportunity to go to university but chose not to, but it is not within the capability set of a person who never had the choice, for example, because of poor secondary education.

There are several advantages of using capabilities as the metric of equality, which are of particular relevance both for relational theories of autonomy and for an ethics of vulnerability. First, capabilities theory aims to develop a normative framework for comparative assessments of advantage and disadvantage that is attentive to human diversity, with respect to both individual differences in natural endowments, personal characteristics, and values and to the external circumstances of people’s lives—their natural, social, cultural, and political environment. People’s ability to convert the resources available to them into achieved functionings will vary according to these individual differences and external circumstances.

Nussbaum (2011) refines this idea with a useful tripartite distinction between *basic*, *internal*, and *combined capabilities*. Basic capabilities refer to the innate equipment, powers, or faculties (e.g., physical capacities or intelligence) of a person, which make possible the development of internal capabilities. Internal capabilities are trained or developed traits, abilities, and characteristics, such

³⁶ For detailed debate concerning whether capabilities or resources (specifically Rawlsian primary goods), is the appropriate metric of equality, see the essays in Brighouse and Robeyns (2010).

³⁷ The question of which functionings and capabilities are valuable is the subject of considerable debate amongst capabilities theorists (see text and note 39). Nevertheless, capabilities theorists do agree that, because of the problem of adaptive preference formation, the notion of *valuable functionings* cannot refer solely to the functionings that the person currently values. In other words, the theory aims to provide an objective, not a subjective, metric of justice. For further discussion of capabilities as an objective metric see Anderson (2010).

as “personality traits, intellectual and emotional capacities, states of bodily fitness and health, internalized learning, skills of perception and movement,” which are “developed, in most cases, in interaction with the social, economic, familial, and political environment” (p. 21).³⁸ For example, a girl who has the intellectual capacity to learn to read will not develop the capability to do so if she is denied access to a primary school education (or equivalent learning opportunity). Combined capabilities are internal capabilities “plus the social/political/economic conditions in which functioning can actually be chosen” (p. 22). The notion of combined capabilities is important for identifying how social, political, and economic conditions can affect a person’s opportunities and abilities to exercise her internal capabilities. For example, a woman who is lesbian may have the internal capability for sexual expression but not the combined capability to exercise it if she is a member of a community that proscribes same-sex relationships.

Second, because it attends to the specificities of individual circumstance and context and disaggregates distinct dimensions of well-being, capabilities theory enables a fine-grained analysis of the meaning of equality, which also enables a fine-grained analysis of the different sources of social injustice, inequality, and disadvantage within a society and their impact on people’s opportunities. Sen (1992, 2009) argues that poverty is best understood not in terms of a single indicator—income—but as *capability failure* across a range of different indicators of well-being. Nussbaum (2000, 2006, 2011) extends this analysis, developing a list of ten distinct central capabilities necessary for a minimally flourishing life. A decent political order, in her view, should aim to secure for all citizens at least a threshold level of each capability.³⁹ A central focus of her work has been to analyze the impact of gendered cultural norms on women’s access to these central capabilities.

This fine-grained analysis of the meaning of equality and of the different sources of inequality complements the analysis of vulnerability provided in Section 1. Specific capability deficits can signal sources of occurrent or dispositional vulnerability and vice versa. The notion of vulnerability also signals the actual or potential harm that may result from particular capability deficits and highlights the obligation to address those deficits in order to remediate vulnerability. To continue the previous example, a lesbian who does not have the combined capability to express her sexuality is situationally vulnerable to a range of possible harms. The specific harms to which she is vulnerable will

³⁸ Nussbaum makes it clear that the distinction between basic and internal capabilities is not clear-cut. Since the development of basic capabilities is a function of both genes and environment, basic capabilities are already in a sense internal.

³⁹ For the list of ten central capabilities, see Nussbaum (2000, pp. 78–86; 2006, pp. 76–81; 2011, pp. 33–40). Nussbaum’s list and her method of developing it are controversial among capabilities theorists, many of whom argue that any such list of valuable capabilities should be developed through procedures of democratic deliberation. See, for example, Robeyns (2003).

vary depending on the community of which she is a member but may include social ostracism and persecution, loss of employment opportunities, forced marriage to a man, or being a victim of homophobic violence. If we think the capability for sexual expression is an important condition for a flourishing life, then this capability deficit, and the woman's situational vulnerability to such harms, is unjust and calls for action (in the form of legislative and social change) to remediate her vulnerability.

The third advantage of the capabilities metric is that it marries a focus on the importance of choice or freedom with attention to the social conditions of choice. The notion of choice is built into the concept of capabilities, as freedom or opportunity to achieve valuable functionings. This is why capabilities theorists argue that the political goal of a just society should be to enhance citizens' (combined) capabilities, in the sense of ensuring equal access to a wide range of opportunities rather than ensuring the achievement of specific functionings. Note, however, that the focus on capabilities rather than achieved functioning is subject to the proviso that it applies to adult citizens only. As Anderson (2010) points out, because children are not yet autonomous and because the level of actual functionings children achieve have a profound impact on their opportunities as adults, capability theorists agree that with respect to children the relevant political goal should be to ensure the achievement of specific functionings, especially related to health, education, and bodily integrity (p. 84).⁴⁰ The emphasis on choice follows from the fact of diversity and from a commitment to value pluralism. Because different people will value different capabilities, depending on their internal capabilities and their conceptions of the good, a just society ought to guarantee equality of access to a wide range of opportunities but leave it to individuals to choose which particular capabilities to realize beyond the threshold.

While emphasizing the importance of individual choice and freedom, capabilities theorists, like theorists of relational autonomy, are particularly attentive to the role of the social environment and social, political, and legal institutions in enabling or constraining individual freedom. In contrast, libertarian conceptions of choice fetishize individual choice but ignore the social contexts and determinants of those choices. As Sen (1992) points out, many important freedoms are made possible by well-designed public policy and well-functioning institutions. He gives the examples of public health policies that eliminate or reduce the risk of epidemics and of agricultural policies that prevent famine.⁴¹ Such institutional structures enable individual freedom and autonomy and

⁴⁰ On the importance of education, see Nussbaum (2011, pp. 152–157).

⁴¹ Sen (1992) refers to the freedom made possible by enabling social environments and institutions as *effective freedom*. Having effective freedom does not require that a person exercises direct control over every aspect of her circumstances. What it requires is that the “levers of control are systematically exercised in line with *what I would choose*” (p. 64).

promote resilience by mitigating inherent vulnerability and averting avoidable situational vulnerabilities. In terms of the constraints on choice, capability theorists are particularly attentive to the phenomenon of adaptive preference formation and its impact on individuals' capability sets. In other words, like theorists of relational autonomy, capability theorists recognize that, in social situations characterized by oppression or deprivation, it is not just external factors that constrain autonomy and give rise to capability deficits, but also the internalization of these constraints, which shape individuals' sense of what they can be and do.

While the work of Sen (1992, 2009) and Nussbaum (2000, 2011) has focused primarily on development contexts, other capabilities theorists, such as Anderson (1999, 2010), have applied the framework to socially disenfranchised and marginalized groups in democratic states. Anderson's theory of democratic equality is particularly relevant to the argument of this chapter because her critique of the rhetoric of personal responsibility and the minimal state resonates with Fineman's (2008, 2010) critique and she shares many of the same political goals. However her capabilities-based theory provides a more specific and nuanced account of equality than Fineman's vulnerability analysis. For this reason, it provides a stronger argument for the social justice obligations arising from vulnerability.

Anderson's theory proposes a sufficientarian (or threshold) standard of justice for democratic societies that derives from a detailed analysis of equality. Anderson (1999) argues that the fundamental obligation of citizens in a democratic community to one another is to secure the social conditions of everyone's freedom (p. 314). She understands this obligation in egalitarian terms as requiring that citizens stand in social relations of equality to one another, and specifies that the relevant metric of equality is capabilities. Anderson's answer to the question of which capabilities a society has an obligation to equalize imposes both negative and positive obligations on democratic states: "Negatively, people are entitled to whatever capabilities are necessary to enable them to avoid or escape entanglement in oppressive social relationships" (p. 316). Anderson (2010) argues that relationships of domination and subordination, not only between the state and citizens but also in the private sphere and in civil society, undermine the social conditions for individual freedom. Within the private sphere, domestic violence and restrictions on women's sexual autonomy or on their ability to participate in the labor market, for example, engender a range of capability failures that a just society ought to be committed to abolishing. Status inequalities and injustices in the informal social relations of civil society, such as group stigmas and stereotypes, oppressive social group norms, and de facto segregation, she argues, should also be analyzed as kinds of capability failure that "injure citizens' standing as equals, and therefore undermine a society's claim to be democratic" (p. 91). As discussed in Section 2, these kinds of capability

failure, caused by social relations of domination, oppression, and exclusion, are of particular concern to theorists of relational autonomy.

The positive obligations of a democratic state are to ensure that “citizens have a claim to a capability set sufficient to enable them to function as equals in society” (Anderson 2010, p. 83). Anderson (1999) spells out these requirements with respect to persons’ capabilities to function as human beings, as participants in a system of cooperative production, and as citizens. Human functioning includes the requirements necessary not only to sustain a healthy human life but also to exercise autonomous agency; equal participation in cooperative production includes not only the necessary means for doing so—access to education and to the means of production—but also freedom of occupational choice and recognition of one’s contribution by others; equality as a citizen requires not only the necessary political freedoms but also the capacity to form relationships and to participate as an equal in civil society, which in turn requires effective access to a sphere of privacy (p. 318).

Note that the stress is on a guarantee of equal effective access or the capabilities sufficient for equal standing rather than on equal functioning, which thereby preserves freedom of choice, encourages incentive, and promotes personal responsibility. Nevertheless, the sufficientarian standard guarantees that citizens who need more assistance to reach the threshold and to convert resources into functioning are entitled to the additional resources, support, and accommodations necessary to do so. As Anderson (2010) argues, “The basic structure should provide, to each person, access to a package of resources adjusted to that person’s ability to convert resources into relevant functionings, and sensitive to environmental factors and social norms that also affect individuals’ conversion abilities” (p. 87). Thus, citizens with disabilities—physical or cognitive—are entitled to targeted, publicly funded forms of assistance, such as disabled parking spaces, wheelchair ramps, signing interpreters, seeing eye dogs, or supported employment and accommodation. Citizens whose first language is not English (in the case of English-speaking democracies) are entitled to targeted provisions, such as access to language classes for recent immigrants, access to written translations of important public documents, and the provision of interpreters in medical and legal contexts. Women who are victims of domestic abuse are entitled to access a network of services, including safe housing (e.g., in a women’s refuge), financial and psychological counseling, legal advocacy, and the social support necessary to enable them to care for their children.⁴² Citizens who are long-term unemployed are entitled to access programs that provide further education and training. Such forms of assistance are core social entitlements of justice, not merely justifiable on humanitarian grounds (Anderson 2010, p. 93).

⁴² See Ben-Ishai (2012a, Chapter 5) for a helpful discussion of modes of social service delivery that best promote resilience and foster autonomy in women who are survivors of domestic violence.

I am now in a position to draw together the conceptual connections between my analysis of the different sources and states of vulnerability (Section 1), relational approaches to autonomy (Section 2), and the capabilities-based approach to democratic equality outlined in this section. This will recap my argument for the importance of relational autonomy and capabilities for an ethics of vulnerability. It will also show why the concept of vulnerability is in turn relevant for understanding the concept of capabilities, suggesting that, rather than being competitor theories of justice, an ethics of vulnerability and capabilities theory should be seen as mutually informative.

One reason why it is important to distinguish different sources and states of vulnerability is because doing so helps in identifying different kinds of capability deficits and the actual or potential harms they cause. The notion of inherent vulnerability focuses attention on the capabilities necessary to sustain a minimally decent human life—that is, a life in which a person's corporeal, affective, and social needs are met to the requisite threshold level. It also makes salient the occurrent or potential harm or suffering caused by capability deficits with respect to the meeting of these needs. To sustain a minimally decent human life, we all need adequate shelter, nutrition, and clothing, reasonable levels of health, social interaction and support, and opportunities to develop and exercise our capacities for human agency. By virtue of these needs, all human beings are inherently vulnerable. How this vulnerability affects us—whether occurrently or dispositionally—and the extent to which it gives rise to capability deficits will depend, however, on a person's specific constitution and situation. The notion of situational vulnerability focuses attention on aspects of a person's interpersonal, social, political, economic, or environmental situation that may compound her inherent vulnerability and compromise her capabilities to participate in schemes of cooperative production and potentially her status as an equal citizen. The notion of pathogenic vulnerability serves two useful functions. First, it draws attention to the way that situational vulnerabilities caused by social relationships of domination and subordination—in the private sphere, in civil society, or at the level of the state—can give rise to compounded capability deficits or corrosive disadvantage. A just society must seek to eradicate such relationships and to remediate the compounded capability deficits that give rise to pathogenic forms of vulnerability. Second, it draws attention to the way that badly designed social policy responses to vulnerability can also cause or compound major capability failure, thereby entrenching social inequality and injustice.

A person who is homeless, for example, is inherently and situationally vulnerable. Arguably, in many instances, homelessness is also the result of pathogenic social policy responses to vulnerability. Homelessness renders persons more inherently vulnerable to failures in the capabilities necessary for a minimally decent life: living on the streets or in insecure hostel accommodation, and with inadequate daily nutrition, homeless people are more vulnerable not

only to ill health but also to physical assault. But homelessness also threatens the capabilities required for participation in schemes of social cooperation and equal citizenship. People are usually homeless because they have lost their livelihoods or cannot work, perhaps because they are suffering from mental illness or addiction and do not have adequate financial and social support; and their basic rights as equal citizens are frequently eroded or disregarded. The fact that a person who has lost her job or who is mentally ill or an addict is on the streets, however, points to a range of social policy failures: among others, insufficient public housing; poor policy and treatment responses to mental illness; and the criminalization and stigmatization of addiction.⁴³ Homelessness is thus a situational vulnerability that is also pathogenic.

All three kinds of vulnerability draw attention to the need for responses that remediate or lessen the intensity of the particular harms and suffering to which the vulnerable person is subject. As I argued in Section 2, however, just interventions to remediate vulnerability must not only minimize harm and meet fundamental needs⁴⁴ but must do so in a way that fosters autonomy and promotes the development of the relevant capabilities. Objectionably paternalistic interventions, as we have seen, express or perpetuate relationships of domination and inequality among members of a community or between the state and citizens. As such, they involve a failure to recognize the persons who are the target of such interventions as having the *status* of autonomous agents. In contrast, nonpaternalistic forms of protection recognize vulnerable persons or social groups as equal citizens, but as citizens who may need targeted forms of assistance to convert resources into functionings and hence to reach the threshold level of capabilities to enable them to fully realize equal citizenship. Such forms of assistance thus foster and promote autonomy.

4. Conclusion

In this chapter I have developed an analysis of vulnerability that preserves some of the important insights of Fineman's (2008, 2010) analysis of state-citizen relations while also explaining why autonomy and capabilities must be central to an ethics of vulnerability. By distinguishing different sources and states of vulnerability I have explained the sense in which vulnerability is both universal and context specific, both inherent to the human condition

⁴³ For a nuanced discussion of how the criminalization and stigmatization of illicit drug use generate pathogenic forms of vulnerability and how well-designed public policy responses in the form of supervised injection facilities can help to remediate this vulnerability to some degree and foster autonomy, see Ben-Ishai (2012b).

⁴⁴ Miller (2012) defines fundamental needs as needs that are objective, inescapable, inevitable, urgent, and universal—needs that, if unmet, will result in the harm of compromised agency. For further discussion see the introduction to this volume.

yet always already shaped by social and political relationships and institutions. By understanding autonomy relationally I have explained why the obligation to promote autonomy is not only consistent with but also central to the normative obligations involved in responding to vulnerability. Finally, by drawing on a capabilities-based threshold theory of democratic equality, I have argued that targeted responses to vulnerability can avoid objectionable paternalism if they are guided by the aim of fostering autonomy and promoting capabilities.

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Vulnerability and Bioethics

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Vulnerability is a key concept in bioethics. Research ethics guidelines identify the need for protection of vulnerable participants, the principles of clinical ethics are underpinned by the vulnerability associated with loss of health, and public health ethics is increasingly concerned with the health inequities experienced by vulnerable populations. Throughout this literature, there are two conceptions of vulnerability at work. The first is the inherent and inevitable vulnerability that is part of the human condition, what we might call universal vulnerability. The second is vulnerability that is associated with contextual factors, which signifies increased precariousness or greater risk of harms for particular individuals. This chapter provides a detailed examination of the way that the notion of vulnerability has been understood in bioethics. In so doing, it shows how lack of conceptual clarity about vulnerability leads to confusion about who the vulnerable are and what duties are owed them in the areas of health care, research, and public health. It also identifies how a well-developed account of vulnerability might contribute to bioethics. Greater clarity concerning the concept of vulnerability will make a contribution not only to bioethics but also to an ethics of vulnerability more generally.

There can be little doubt that vulnerability is an important concept in bioethics. Yet despite its importance, the concept of vulnerability is not well understood in bioethics. We lack a clear account of how recognition of vulnerability can or does ground duties such as protection of the vulnerable, and we do not have agreed methods for identifying the vulnerable, whether at the individual, group, or population level. Further, the role that the concept of vulnerability plays in bioethical theory and its relation to other central bioethical concepts such as beneficence, autonomy, and justice remain relatively obscure.

The lack of theoretical clarity about vulnerability in bioethics may in part reflect a more general neglect of vulnerability as a topic for philosophical

investigation. Apart from Goodin's (1985) work, there has until recently been relatively little scholarship in this area.¹ While this chapter does not aim to provide a philosophical analysis of the concept of vulnerability, investigating questions about vulnerability from within bioethics serves as a useful way to engage critically with the concept. Any insights that ensue not only may be germane to that discipline but also may have broader relevance for an ethics of vulnerability.

Among reasons for the relative philosophical neglect of vulnerability, Hoffmaster (2006) suggests three possibilities. The first is that vulnerability is antithetical to what he sees as the dominance of individualism in contemporary moral philosophy. If being self-sufficient and autonomous is an essential part of the good life, then vulnerability, especially where this involves dependency or suffering, serves as a potentially unwelcome reminder of the limits of individualism. Second, vulnerability is very much a feature of embodied beings, and insofar as moral philosophy has focused on reason and the intellect, the body, with its attendant vulnerabilities, has been largely neglected.² Third, Hoffmaster argues that vulnerability evokes emotions: vulnerability is something that we feel ourselves and that elicits compassion for affected others, but, like bodies, emotions have been marginalized in much philosophical discourse.³

Whether or not these reasons account for the neglect of vulnerability within bioethics is open to question. With respect to Hoffmaster's (2006) first claim about the domination of individualism, while it is the case that individual autonomy has been a dominant concept in bioethics, relational approaches to autonomy, which locate the development and exercise of autonomy within complex social relations, have made a very significant contribution to bioethics over the past decade (Sherwin 1998; Mackenzie & Stoljar 2000). In addition, frameworks other than those based on principles, such as virtue ethics or ethics of care, offer alternative accounts of the central moral concerns of bioethics. Regarding his second point, bioethics concerns the ethical issues arising from the biosciences, with a significant focus on issues arising from human health and health care, thereby undermining the claim about neglect of the body. Bioethics necessarily involves bodies, whether these are being born, dying, being genetically modified, or being subjected to experimentation.

¹ For discussion of this point, see the Introduction and chapter 1 by Mackenzie.

² While Hoffmaster is broadly correct in his claim about the neglect of vulnerability in philosophical literature, as discussed in the Introduction, Judith Butler's (2004, 2009) work engages with what she calls corporeal vulnerability. Fineman (2008) also uses this notion in her research on the vulnerable subject, whereas feminist theorists such as Held (1987) and Kittay (1999) investigate the theoretical implications of vulnerability and dependency.

³ It is beyond the scope of the present chapter to critique these claims by Hoffmaster regarding the nature of contemporary philosophy, but I think that they are generalizations requiring further scrutiny.

However, it is fair to claim that at least some approaches to bioethics focus on the abstract rather than the embodied. Hoffmaster's third point about emotions may apply equally to bioethics and moral philosophy; bioethics does tend to focus on reason rather than emotion, especially where this involves analysis of dilemmas through the application of principles. Thus, the reasons by which Hoffmaster seeks to explain a lack of philosophical attention to vulnerability may be relevant to the situation in bioethics.

Another possible explanation for the lack of attention to and clarity about vulnerability in bioethics and in philosophy may simply be that its meaning is taken for granted. What we mean by vulnerability within bioethics seems self-evident: the vulnerable are those who are at increased risk of harms, either because they are in hazardous situations or because they have a decreased capacity, for whatever reason, to safeguard their own interests. We intuitively recognize as vulnerable premature babies in intensive care units, adults with dementia, patients on the operating table, disempowered research populations such as prisoners or refugees, or those desperate for medical care. However, the concept of vulnerability is under challenge on a number of fronts so that any appeal to its uncontested and self-evident meaning is no longer adequate. Its applicability to research ethics has been the subject of increasing criticisms, in part because it does not provide a defensible basis for identifying people who merit special concern (Hurst 2008; Luna 2009; Lange, Rogers & Dodds 2013). Further, there is growing concern about the usefulness of the concept to explain what duties are owed to the vulnerable in the face of health threats, such as pandemic influenza (Lee, Rogers & Braunack-Mayer 2008).

In this chapter I map the place of vulnerability within bioethics, using examples from clinical, research, and public health ethics to identify current problems with the way that vulnerability is conceptualized and used. I argue that we need an account of vulnerability that explains the relationships between vulnerability and other key values such as autonomy and health. Such an account should allow us to reliably identify the vulnerable and to understand the moral implications of that recognition. Mapping practical applications of philosophical concepts is part of the necessary dialogue between theory and practice. Strengths and weaknesses of conceptual analyses can be identified through an examination of their usage in relevant fields, while theoretical gaps and conceptual confusion can be illuminated by examples. This practical analysis of vulnerability in bioethics can therefore help to identify the questions that an adequate ethics of vulnerability must address.

1. Vulnerability and the Foundations of Bioethics

Some of the earliest and most important formal documents in bioethics originated from concerns about research with humans. The aim of the Nuremberg

Code, widely regarded as foundational in research ethics, was to protect people who were the subjects of research from potential harms by prohibiting research participation except with their express consent. This approach set the scene for informed consent to become established as the major protection for participants in research. Vulnerability is not explicitly mentioned in the Nuremberg Code; however, much of the Nazi research involved those who were highly vulnerable under that regime: Jewish people; inmates of concentration camps; people with mental impairments or illnesses. Thus, although the Nuremberg Code was not aimed specifically at groups designated vulnerable, it was very much concerned with offering protection to potentially vulnerable research participants via the mechanism of informed consent.

The influential American 1979 *Belmont Report* aimed “to provide an analytical framework that will guide the resolution of ethical problems arising from research involving human subjects” (National Commission for the Protection of Human Subjects of Biomedical and Behavioral Research 1979, p. 3). The three principles promulgated in the report (concerning respect for persons, beneficence, and justice) were directed to the protection of all human research participants. Within the report, vulnerable participants were distinguished, presumably from nonvulnerable participants, in three ways: first, regarding inducements that would ordinarily be acceptable but that may become undue if the subject is especially vulnerable (p. 9); second, regarding assessing risks and benefits when “the appropriateness of involving them [vulnerable populations] should itself be demonstrated” (p. 11); and third, as a question of justice:

One special instance of injustice results from the involvement of vulnerable subjects. Certain groups, such as racial minorities, the economically disadvantaged, the very sick, and the institutionalized may continually be sought as research subjects, owing to their ready availability in settings where research is conducted. Given their dependent status and their frequently compromised capacity for free consent, they should be protected against the danger of being involved in research solely for administrative convenience, or because they are easy to manipulate as a result of their illness or socioeconomic condition. (P. 12)

The *Belmont Report* identified vulnerable groups as warranting special attention, provided illustrative examples of who those vulnerable groups might be, signaled their potentially limited capacity to give consent, and highlighted the need for protection against possible exploitation. Despite attempting to be comprehensive, this account contains implicit confusion about the meaning of vulnerability in the context of research. On one hand, the vulnerability of all participants requires protection, principally through the mechanism of informed consent. On the other hand, some especially vulnerable participants require additional protections, such as avoidance of undue inducements, more favorable risk–benefit ratios, and even exclusion from research altogether. The

fact that we need research ethics at all, that we have protections in the way of guidelines and requirements for informed consent, indicates that there are potential harms to which all participants are vulnerable, but the *Belmont Report* points to the importance of recognizing that not all participants are equal when it comes to risk of harm, that some features of specific participants make them more susceptible to harm than others who lack those features. And to these more vulnerable participants, greater duties are owed in protection from exploitation and harms.

These early codes of research ethics are important for framing subsequent debates about vulnerability in bioethics. The themes of universal protections for humans, be they patients or research participants, and special protections for the particularly vulnerable recur in accounts of research, clinical, and public health ethics. This dual approach reflects the wider philosophical literature, in which vulnerability is seen both as an ontological feature of embodied existence (universal vulnerability) and a characteristic that arises in specific contexts, affecting some more than others.⁴

2. Vulnerability and Research Ethics

Within bioethics, the concept of vulnerability has been most extensively discussed in research ethics. There have been attempts to analyze the concept and articulate the sources and circumstances of vulnerability, to identify the especially vulnerable, and to describe appropriate responses and protections for these individuals and groups. As well, there is an emerging literature that is critical of the way that vulnerability is conceived and used in research ethics.

Conceptual accounts of vulnerability try to capture just what it is that we mean by identifying individuals or groups as vulnerable. Kipnis (2003, p. 108) proposes an analytic account of the vulnerability of research participants in response to what he sees as the shortcomings of the widespread subpopulation approach. The latter involved labeling various groups as vulnerable and then considering what protections might be appropriate. Rather than identify vulnerable groups, he seeks to “describe the circumstance that signal vulnerabilities that researchers should take into account” (ibid.). Kipnis focuses on consent, identifying factors or features that would either “call into question the efficacy of consent in effecting the permissibility of proposed research, or that somehow nullify the ability to give or withhold informed consent” (ibid.) on the part of research participants. He takes vulnerability to be “a certain precariousness” (ibid.) that leaves the person open to being harmed or being taken advantage of by researchers. His (2006) taxonomy of vulnerability identifies

⁴ For further discussion, see the Introduction in this volume.

TABLE 1 Sources of vulnerability in research ethics

Intrinsic	Extrinsic
Medical	Juridic
Cognitive	Allocational
Deferential	Infrastructural

Source: Adapted from Kipnis (2006); Rogers & Ballantyne (2008)

six potential sources. First, vulnerability may arise for medical reasons, where there are serious health-related conditions for which participation in research offers the only potential remedy. Second, vulnerability may have a cognitive source if there is impaired capacity to deliberate about and decide whether or not to participate in a study. Third, deferential patterns of behavior may mask an underlying unwillingness to participate, creating vulnerability for participants such as patients who may be recruited for their clinicians’ research. Fourth, potential participants may be subject to the authority of others who may have an independent interest in their participation, creating what Kipnis calls a juridic source of vulnerability. Fifth, a serious lack of important social goods that will be provided as a consequence of participation in research creates an allocational source of vulnerability. Finally, vulnerability may arise from features of the infrastructure surrounding the research, such as the presence or absence of the resources needed to manage the study, and the political, organizational, economic, and social context of the research setting.

Along similar lines, other authors (e.g., Rogers & Ballantyne 2008) identify extrinsic and intrinsic (to the individual) sources of vulnerability and their related remedies. Rogers and Ballantyne relate vulnerability to various power inequalities in the researcher–participant relationship. Their extrinsic–intrinsic classification fits to some extent with Kipnis’s (2006) taxonomy (see Table 1) but, with its focus on power relations, may better be able to account for informal sources of control and influence not captured by Kipnis’s juridic or infrastructural categories.

Although Rogers and Ballantyne do not explicitly draw on relational accounts of autonomy, their intrinsic–extrinsic classification is sympathetic to relational features that may exacerbate or diminish vulnerability and, by extension, undermine or support autonomy. The purpose of these taxonomies is to identify the sources and likely impact of different vulnerabilities in research and thereby suggest ways of overcoming or ameliorating them.

In his analysis, Nickel (2006) returns to the *Belmont Report* to identify two overlapping senses of vulnerability in research. The first relates to those who are unable to safeguard their own interests since they lack the capacity to give autonomous informed consent with respect to participation in research. What makes participants vulnerable in this first sense is their (in)capacity for autonomous decision-making. Nickel’s second sense of vulnerability relates

to fairness and concerns: (1) the unfair burden of research participation that may fall to disadvantaged or dependent groups who lack the power to refuse participation; and (2) the unfair distribution of the benefits of research and in particular the injustices that arise from exclusion from research (p. 248).

As Nickel (2006) points out, issues of exploitation and fair benefits are linked to vulnerability, especially in the context of multinational research. Here exploitation refers to the power of researchers, often working on behalf of transnational pharmaceutical companies, to take advantage of populations in resource-poor countries. This leads to an unequal distribution both of burdens, borne by the dependent developing world research participants, and of benefits, which flow to citizens of wealthy nations who have avoided the risks of research participation. The generally agreed remedy to avoid or ameliorate this kind of exploitation is that researchers and sponsors ought to share the benefits of research fairly with vulnerable research participants. However, procedural mechanisms for identifying fair benefits rely on informed consent, and, as Ballantyne (2010) argues, research participants in resource-poor countries may consent to unfair or exploitative conditions because of their relative lack of power to bargain effectively with research sponsors. Thus, using informed consent as the procedure to ensure fair sharing of benefits cannot guarantee that this will occur. While a substantive account of fair benefits might address this problem, to date there is little consensus as to what such an account might be (see Ballantyne 2008, 2010).

This first strand of scholarship therefore analyzes the sources or circumstances of vulnerability and provides recommendations as to how to address the vulnerabilities so identified. Where these accounts fall short is in terms of exploring the relationships between different sources of vulnerability and in linking responses to vulnerability to other research-related ethical duties such as respecting autonomy and justice. The focus has largely been on informed consent as the mechanism to protect the vulnerable, but, as will be explored in more depth in this chapter, informed consent alone cannot carry all of this weight. Some vulnerabilities, such as exploitation, are not reduced or averted even in the presence of informed consent. Rather, an adequate account of vulnerability in bioethics must provide a more nuanced set of responses capable of addressing the different sources of vulnerability that arise in research.

Parallel to analytic accounts of vulnerability, there have been increasing efforts to identify vulnerable research participants by group membership in what has come to be known as the *labeling* approach (Luna 2009). Its two major criticisms are that it is too narrow and too broad (Nickel 2006; Levine et al. 2004). I discuss each of these in turn.

According to its critics, the narrow approach reduces vulnerability to questions of incompetence, or reduced competence, to give informed consent to research (Bielby 2008), making the point of ethical review to identify

all of the factors that might render consent less than fully valid. On this model, protection of the (incompetent) vulnerable is achieved by improving informed consent procedures; if this is unworkable or unsuccessful, participants deemed vulnerable are excluded from research altogether. However, there are serious problems with this model. First, it is based on a restrictive conception of vulnerability as incapacity to give informed consent and thus fails to address the full range of moral issues raised by vulnerability, such as susceptibility to exploitation (Macklin 2003). Some research participants may be vulnerable to exploitation in research, for example by virtue of poverty; attention to informed consent processes will not necessarily resolve this. As Levine et al. (2004) argue, the narrow approach “can divert attention from features of the research itself, the institutional environment, or the social and economic context that can put participants in harm’s way” (p. 46). These authors note that the problems that led to the deaths of healthy volunteers in recent U.S. research were related not to inadequate consent but rather to serious flaws in research design, implementation, and oversight.⁵ A focus on informed consent will not provide protections against factors such as dangerous protocols, researchers with conflicts of interest, or dysfunctional institutions, all of which make participants vulnerable by increasing their risk of harm.

In a similar vein, Zion, Gillam, and Lof (2000) also criticize the restricted informed consent approach to vulnerability. They argue that vulnerability is linked to a lack of basic human rights; on this view, improving consent procedures is a manifestly inadequate mechanism for protecting those who are vulnerable due to a lack of basic human rights. For example, better information about a research protocol does not affect a participant’s vulnerability arising from extreme poverty or from coercion by a local power broker. Part of the problem here relates to the procedural nature of research ethics. Vulnerability functions as an issue to be addressed by human research ethics committees⁶; the committee notes the proposed participants and their alleged or potential vulnerability and so pays extra attention to consent. Given the remit of ethics review committees, they can do little other than require relatively minor changes to aspects of the research protocol as they lack the power to demand actions that might alter the social or economic context or the human rights of the participants. And where committees are uncomfortable with the situation

⁵ See Steinbrook (2002) for a discussion of the death of Ellen Roche, a healthy volunteer who died following inhalation of hexamethonium as part of a research trial into understanding the pathophysiology of asthma. External scrutiny identified serious problems with the conduct of the research including very poor standards in the review of the research protocol by the institutional review board, deficiencies in the manufacturing standards for the inhalant, and a culture of possible coercion concerning the recruitment of healthy volunteers from among the staff at Johns Hopkins Medical Institutions.

⁶ Also known as institutional ethics committees (IECs) or institutional review boards (IRBs).

of the potential participants, perhaps in recognition of the inadequacy of consent as a remediation measure, committees can either withhold approval of the entire research proposal or preclude the vulnerable group from among the potential participants. This protects participants from inadequate consent and may protect some against exploitation but is not without its own costs. In countries where participation in research is an important avenue for accessing health care, exclusion from research may remove the only chance for treatment and may cause significant harm.

Protectionist policies have led to the exclusion from research of significant numbers of people considered vulnerable, including children, people with mental illnesses, pregnant women, and the elderly. This is very much a double-edged sword as exclusion from research leads to inadequate information about therapeutics for individuals and groups so excluded (Rogers & Ballantyne 2009). This issue is well recognized regarding pregnant women. Very few treatments have been proven in research to be effective for pregnant women, leading either to undertreatment of potentially serious conditions or to exposure to treatments of unknown safety and efficacy (Lyerly, Little & Faden 2008). Exclusion from research is particularly problematic in this era of evidence-based medicine as access to treatment may be governed by the existence of evidence about the efficacy of that treatment: where groups are systematically excluded from research, the evidence base is correspondingly meager and the treatment options limited (Rogers 2004).

In contrast to criticisms of the narrow interpretation in which considerations of vulnerability are reduced to informed consent, a second set of criticisms relates to what is seen as an overinclusive approach to vulnerability, which expands the category to such an extent that whole populations have been identified and labeled as *vulnerable* (Luna 2009). Hurst (2008) reviewed several internationally recognized research ethics guidance documents and found that all of the following groups are considered by one or more of these guidelines to be vulnerable:

racial minorities; the economically disadvantaged; the very sick; the institutionalized; children; prisoners; pregnant women and foetuses; incompetent persons; persons susceptible to coercion; persons who will not derive direct benefits from participation; persons for whom research is mixed with clinical care; those with limited capacity or freedom to consent or to decline to consent... children, and persons who because of mental or behavioural disorders are incapable of giving informed consent; junior or subordinate members of a hierarchical group... medical and nursing students, subordinate hospital and laboratory personnel, employees of pharmaceutical companies, and members of the armed forces or police; elderly persons; residents of nursing homes; people receiving welfare benefits or social assistance and other poor people; the unemployed; patients in emergency

rooms; ...homeless persons; nomads; refugees or displaced persons; patients with incurable disease; individuals who are politically powerless; members of communities unfamiliar with modern medical concepts. ... (P. 193)

According to this list, not many potential research participants are *not* classified as vulnerable. This blanket approach to labeling vulnerable populations renders the notion of vulnerability otiose and therefore of limited use in responding to specific vulnerabilities in research because it obscures rather than enables the identification of the context-specific needs of particular groups (Levine et al. 2004; Luna 2009). Vulnerability cannot serve as a flag for putting in place *extra* protections if everyone involved in research is defined as vulnerable. The concept becomes so broad as to be meaningless, or at least useless in terms of mandating specific responses (Hurst 2008). The dangers of the labeling approach are that it fails to consider the specifics of each case and may lead to discrimination and stereotyping. While educational disadvantage, or impaired cognition can lead to vulnerability, the impact of factors of this kind on individuals will vary enormously. Children are a case in point: in general young people under the age of sixteen years are considered incapable of giving consent for research, but the capacity to understand complex information and to make a considered decision varies a great deal among adolescents. Lumping people together under the vulnerability label can stereotype whole groups as incapable of caring for their own needs or of being self-determining. This finding in turn can then be used to justify unwarranted and unjust paternalistic policies (Dodds 2007; Ho 2008). The blanket application of the notion *vulnerable populations* undermines respect for individual autonomy, thereby opening up its own set of potential harms.

Hurst (2008) identifies a further problem with the labeling approach to vulnerability, which is that it fails to be adequately action guiding because it does not alert us to new moral responsibilities. On her account, vulnerability is an increased likelihood of incurring an already identified wrong related to research participation.⁷ She argues that the wrongs of ill informed or coerced consent, or of exploitation, are wrongs in their own rights and should therefore be avoided. More importantly, these wrongs can affect individuals who do not fit the standard vulnerability descriptors. Researchers can fail to provide accurate information to the most articulate and well-educated participants, thereby compromising their consent. Exploitation is not limited to resource-poor settings as, for example, the loyalty of well-off Western patients can be exploited to further a researcher's ends. If labeling an individual or group as vulnerable does not alert us to new or different wrongs, then it is not clear how it adds to existing accounts of research ethics since we already know that deception,

⁷ See Lange, Rogers, and Dodds (2013) for extended discussion of Hurst (2008) and Luna's (2009) approaches to vulnerability in research ethics.

manipulation, inadequate consent, and exploitation are wrong. One factor contributing to this problem may be a blurring between sources of vulnerability and those who are subsequently labeled vulnerable. Luna (2009) addresses this issue with her layered approach. On her account, there are many potential sources of vulnerability, each of which may confer a layer of vulnerability on an affected individual. The metaphor of layers implies that vulnerabilities are not static or essential but contextual and variable. For example, poverty is a potential source of vulnerability, but whether or not poverty makes this particular person in these circumstances vulnerable (creates a layer of vulnerability) is a matter for investigation rather than assumption. Students are typically poor, but by virtue of their education and background their relative poverty does not lead to the same degree of vulnerability as that of a long-term unemployed person on an identical income.

This point relates back to conceptual analyses of vulnerability. To date these analyses have been largely limited to discussing vulnerabilities *within* research; that is, the vulnerabilities are very specific. The concept of vulnerability in research ethics has been used to identify people whose capacity for consent is compromised or whose risk of exploitation in research is increased, so the response has been either to exclude such participants from research or to develop special consent processes to mitigate the risk of harm or exploitation. Little work has been done on the wider social sources of vulnerability that may affect participants, such as those arising from unmet needs, capability deficits, or impaired capacities for autonomy. Perhaps this is an illegitimate criticism as it is common in bioethics to take the meaning of moral terms as largely fixed and then to apply these to particular problems in the field. But as the current debate about vulnerability in research ethics shows, lack of conceptual clarity is hindering our understanding of what duties are owed to vulnerable research participants, therefore indicating the need for further analytic work. Just as philosophical research on relational autonomy has enriched our understanding of autonomy in bioethics, we need a theoretically sophisticated account of the ethics of vulnerability with the potential both to illuminate the causes of some of the current confusion and to underpin a systematic mapping of the nature and sources of vulnerabilities and the duties owed to those identified as vulnerable.

In summary, the concept of vulnerability in research ethics has served to alert human research ethics committees and researchers to situations in which there may be compromised consent or exploitation, due to the circumstances or characteristics of the participants. However, the lack of clarity about what vulnerability means and which participants should be considered vulnerable can lead to problems of stereotyping, discrimination, and exclusion. The suggested remedies for ameliorating vulnerability include strengthened consent procedures, exclusion from research, or provision of fair benefits. Vulnerability operates as a flag for extra protections at the level of research ethics committee

review and, correspondingly, the proposed protections relate to the research protocol and its immediate aftermath. Given these constraints, there is little scope for considerations of vulnerability to engage with broader issues such as the needs and capabilities of research participants. More importantly, there is significant confusion about the criteria we should use to identify those who are vulnerable and exactly what is owed in the way of protections. This confusion may stem in part from the lack of robust accounts of why a person may be thought to be vulnerable and, given that vulnerability, what responses are morally mandated. These failures to explain the concept and the obligations that flow from it have led to vulnerability becoming a catch-all term, as per the labeling critiques, rendering it of limited practical use regarding protecting vulnerable research participants. In the next section, I examine the way that vulnerability operates as a moral concept within clinical ethics.

3. Vulnerability in Clinical Ethics

Accounts of principles for clinical ethics emerged simultaneously with the *Belmont Report*. Beauchamp and Childress published the first edition of their *Principles of Biomedical Ethics*, with its four principles of respect for autonomy, nonmaleficence, beneficence, and justice, in 1979.⁸ Vulnerability was not explicitly defined or explored in Beauchamp and Childress's four principles for medical ethics, but it is possible to identify connections between vulnerability and these principles. In this section I focus on the connections between vulnerability and the principles of beneficence and respect for autonomy. The connections between vulnerability and justice are discussed in the section on public health ethics.

The principle of beneficence requires clinicians to act in the best interests of their patients, while that of nonmaleficence requires them to refrain from harming patients. This pair of principles is necessary by virtue of the fact that patients are vulnerable, where vulnerability points to susceptibility to harm arising from the actions of their health care providers. With respect to the vulnerability of people qua patients, there are two points to consider. First, the interests that may be harmed are important and universal ones, involving health and well-being; the avoidance of illness, pain, and suffering; and, where possible, the restoration of function. In some circumstances, the interest at stake is that of life itself. Regardless of how we define vulnerability, within the context of healthcare we all share a common biology that makes us susceptible to pain, sickness and death. That is, we have a shared biological fragility, and to the extent that health care can ameliorate

⁸ It is worth noting that Beauchamp was commissioned to work on the *Belmont Report* after he and Childress had drafted the *Principles of Biomedical Ethics* (cf. Childress, Meslin & Shapiro 2005).

or postpone human ills this makes us inherently vulnerable to the skills of our clinicians. Our vital interests may be helped or hindered by health care, hence the injunction on practitioners to avoid harm and act for the good of the patient. These principles would be redundant if we were not vulnerable to illness, pain, and suffering and to the actions of practitioners whom we consult for help.⁹

Second, these biologically grounded vulnerabilities are intrinsically linked to and often exacerbated by vulnerabilities that arise from contextual factors, such as discrimination, poverty, and dependency. This relationship can be complex. Situational factors such as poverty can increase the likelihood of ill health and the need for health care, while lack of education or an imbalance in knowledge and skills between a doctor and patient may further exacerbate inherent biological vulnerability. Principles of medical ethics cannot specify practitioner duties to protect against all of these situational factors, but the duty of beneficence does require practitioners to make the care of the patient their first duty (General Medical Council 2006), which can guard against vulnerability arising from some contextual features such as lack of education or knowledge. For example, most patients have little understanding of the etiology, pathophysiology, or prognosis of the illnesses from which they suffer, nor do they know which treatments to consider. If patients had this information, they would remain vulnerable to the vicissitudes of embodied existence but would be less vulnerable overall as they would, to a greater or lesser extent, be able to take look after their own health interests. Of course there are limits to this. Even the most skilled neurosurgeon cannot repair her own bleeding aneurysm; in general, however, the greater the knowledge and skills imbalance between the practitioner and patient, the more vulnerable the patient is to harm from their medical attendant, and the more important it is that practitioners are bound to protect patient interests. The principles of beneficence and non-maleficence exist to protect patients against harms associated with health and health care, and this protection is required just because humans are universally and inherently vulnerable to ill health and situationally vulnerable to the actions of health-care providers.¹⁰

The principle of respect for patient autonomy has been highly influential in medical ethics. This principle requires doctors to recognize the importance of patient autonomy and the need to treat patients as ends in themselves rather than merely as objects of care. Respect for autonomy may be thought

⁹ This view of the vulnerability associated with health care is consistent with the work of scholars such as Judith Butler, Alasdair MacIntyre, Paul Ricoeur, Margrit Schildrick, and Bryan Turner, who focus on corporeal vulnerability. For further discussion, see the Introduction in this volume.

¹⁰ For further discussion of inherent and situational sources of vulnerability, see the Introduction in this volume and chapters 1 by Mackenzie and 7 by Dodds; see also Rogers, Mackenzie, and Dodds (2012).

of as protection against harms including medical paternalism, mistreatment, or being taken advantage of. As Sue Sherwin (1998) notes, "Without a strong principle of respect for autonomy, patients are vulnerable to abuse or exploitation" (p. 20). By requiring doctors to inform patients about their conditions and to consult them about treatment options, this principle reins in medical power and attempts to establish a more equal partnership between doctors and patients. Within medical ethics, the principle of respect for autonomy has been linked to an individualistic conception of autonomy, with a focus on the nature of decision-making in health care. To this end, widely agreed criteria for autonomous decisions have been developed: autonomous decisions should be (1) fully informed; (2) made only by competent patients, that is, with capacity for rational deliberation; and (3) made voluntarily, free from controlling influences.

What does this view of autonomy tell us about the connections between vulnerability and respect for autonomy? First, by respecting autonomy (through ensuring that conditions for informed consent are met) patients may become less vulnerable to the decisions and actions of their health-care providers. The provision of information facilitates patient participation in the decision-making process and creates a space where the patient's own values and concerns, rather than the doctor's, may direct the decisions. Thus, respecting autonomy, by seeking informed consent, decreases one kind of vulnerability. However, this decisional approach has the consequence of excluding many people, who fail to meet one or more of the criteria for autonomous decision-making. Those who cannot communicate effectively or who are cognitively impaired, irrational, manipulated by others, or coerced are not able to meet the criteria for providing informed consent and are thereby deemed lacking in autonomy. Like those identified in the *Belmont Report*, this excluded group is commonly thought of as vulnerable in a way that invites special considerations, ranging from use of substituted judgments to decision-making based on a best interests standard. Special considerations are intended to offer extra protections, in recognition of heightened vulnerability, but there is a danger in removing a general protection, such as respect for autonomy, and replacing this with less clearly agreed or articulated protections.

This tension between general protections for common or shared vulnerabilities and special protections (which may undermine general protections) for the especially vulnerable may have a number of effects. The decision-making approach imposes a threshold for autonomy; those who fail to meet the criteria, for whatever reason, may be lumped together and excluded from certain privileges, such as having their voices heard or wishes respected, or may suffer discrimination or other disadvantage. The criteria intended to protect autonomy to ensure that people are not coerced or misinformed work against those who fail the test and thereby lose the right to be respected as autonomous.

Depending on the circumstances, this may increase rather than decrease their overall vulnerability.¹¹

The view of the individual that underlies the decision-making approach to respect for autonomy has been widely criticized, leading to alternative accounts of autonomy in bioethics. The most influential of these are relational accounts of autonomy (see, e.g., Sherwin 1998; Mackenzie & Stoljar 2000). Relational accounts take the view that autonomy is best understood as a capacity emerging through and with relations with others and emphasize the importance of the interpersonal and social conditions sustaining the development and exercise of individual autonomy. Autonomy is best supported not by stipulating criteria for decision-making but by understanding and addressing the wider social constraints on this kind of decision-making. On this view, it makes little sense to focus simply on individual choices as the central moral concern of respecting autonomy. Rather, we must take account of the impact of social and political structures on the opportunities of individuals to develop and exercise the skills needed to be able to make the kinds of decisions under question (Sherwin 1998). With regard to vulnerability, relational accounts of autonomy invite consideration of the social factors that might impinge both on decision-making and the available options, to develop a more nuanced understanding of barriers to autonomy. Relational accounts advocate for responses that foster autonomy rather than entrench powerlessness by excluding those with limited decisional skills from decision-making. Such accounts seem better able to identify and explain the fragility of autonomy to diverse sources of vulnerability. This approach avoids the all-or-nothing threshold inherent in decisional models and thus may avoid the potential problem of excluding those labeled as particularly vulnerable from the general protections against vulnerability afforded by respect for autonomy.¹²

I have argued that vulnerability is an implicit motivating concept underpinning principles for clinical ethics, although it is one that few accounts of clinical ethics mention specifically. In contrast, the European Commission has recently identified vulnerability, along with autonomy, dignity, and integrity in its *Basic Ethical Principles in Bioethics and Biolaw* project (Rendtorff 2002). The report on this project makes a number of interesting observations about vulnerability, which it takes to be “a universal expression of the human condition” (Kemp 1999, p. 5) in that all life can be hurt, wounded, or killed. Kemp (ibid.) notes:

Vulnerability has been largely misunderstood in modern society, as if all vulnerability, i.e. suffering, abnormality, and disability, should be eliminated

¹¹ Such an increase in vulnerability would be an example of what we refer to as pathogenic vulnerability. See Rogers, Mackenzie, and Dodds (2012), the Introduction to this volume, and chapters 1 by Mackenzie and 7 by Dodds for further discussion of this concept.

¹² For more detailed discussion of the connections between relational autonomy and vulnerability, see chapters 1 by Mackenzie and 5 by Anderson.

in order to create perfect human beings. Respect for vulnerability is not a demand for perfect and immortal life, but recognition of the finitude of life and in particular the earthly suffering presence of human beings.

This approach universalizes vulnerability but then also uses the concept to identify those who require extra care:

Vulnerability expresses two basic ideas. (a) It expresses the finitude and fragility of life which, in those capable of autonomy, grounds the possibility and necessity for all morality. (b) Vulnerability is the object of a moral principle requiring care for the vulnerable. The vulnerable are those whose autonomy or dignity or integrity are capable of being threatened. (P. 9)

The European Commission goes on to articulate the right of the vulnerable to “receive assistance, to enable them to realize their potential” (ibid.) and links this to ideals of solidarity, nondiscrimination, and community. As with relational accounts of autonomy, this approach makes explicit connection between vulnerability and the development and exercise of autonomy, but in the work of the commission the explanation of these links remains sketchy.

In these European Commission basic ethical principles we can see that once again two concepts of vulnerability are at work: the idea of universal ontological vulnerability; and the idea of the especially vulnerable, “those whose autonomy or dignity or integrity are capable of being threatened,” who need extra care and protection. The European Commission’s principle of vulnerability entails protection of and respect for the vulnerable. It then goes further in claiming that vulnerability gives rise both to negative duties of noninterference and harm protection, and to substantive positive obligations to ensure the social conditions that will ameliorate vulnerability and enable the full development of human capacities. This is promising in terms of analyzing the duties owed to the vulnerable, but as with other accounts, and despite embracing vulnerability as one of its basic ethical principles, the relationship between different levels or degrees of vulnerability remains opaque. In particular, it is not clear how the two concepts of vulnerability (universal and special) are related or what duties are owed on the grounds of universal human vulnerability.

This brief survey of vulnerability in clinical ethics has focused on principlism, which is certainly not the only theoretical approach to bioethics and has in fact been widely critiqued. Influential approaches to bioethical theory, such as consequentialist (e.g., Singer 1993), beneficence based (Pellegrino & Thomasma 1988), virtue ethics (Oakley 2009), and feminist (Sherwin 1992), have provided the basis for robust criticisms of principlism, but in so doing none of them have engaged directly with vulnerability. Rather, vulnerability is likewise implicit in many of these accounts. For example, in placing the interests of the patient at the heart of their account, Pellegrino and Thomasma take it for granted that patients’ interests are vulnerable to the actions of doctors and

in virtue ethics the need for health-care professionals to practice role-specific virtues is just because patients' health-care needs leave patients vulnerable to clinicians' actions.

The main point I make here is that vulnerability is a critical, albeit tacit, concept within clinical ethics. The principles of respect for autonomy, beneficence, and nonmaleficence are all linked to vulnerability in one way or another. Yet, as with research ethics, the emerging picture of vulnerability is confused. On one hand, everyone is vulnerable to harm by virtue of human embodiment, and this harm may be caused or exacerbated by social, political, and environmental features. Vulnerability related to embodiment is ineliminable, but some vulnerabilities may be remedied through informed consent given by rational competent persons. On the other hand, there are groups who are identified as particularly vulnerable, who cannot give informed consent, or who have heightened risk of harms. There is some shared consensus about which individuals or groups are particularly vulnerable and some consensus about the protections that can be offered, but we lack a clear understanding of what makes some people more vulnerable than others, which vulnerabilities are important, or exactly what duties are thereby entailed. In the next section I turn to justice and the ways that duties to the vulnerable have been conceived in public health ethics.

4. Duties to the Vulnerable: Justice and Public Health Ethics

Public health ethics has a shorter formal history than either clinical or research ethics; however, its current concerns with vulnerable populations warrants consideration here, and it is within public health ethics that we find the clearest articulation of the connections between vulnerability and justice. Until recently, there were few formal accounts of public health ethics. The dominant ethos was utilitarian: the great sanitation measures of the nineteenth and early twentieth century were motivated by bringing about the greatest good for the greatest number through measures that were thought to be self-evidently beneficial. Under this banner, benefits such as clean water and effective sewage systems were introduced, but the goal of promoting population health was also used to justify more sinister measures such as compulsory sterilization of those with intellectual disabilities or mental illness who were considered "defective." Rather than protect such people as vulnerable subjects, sterilization sought to improve the public's health by eradicating such defects from the population altogether.

The rise of individualism and the increasing focus on personal autonomy inevitably led to challenges to this utilitarian model of public health. Resistance to immunization and to fluoridation of the water were two obvious areas in which people asserted their right to choose, rather than the right of the state

to dictate, in matters of health. The tension between state efforts to protect and promote the health of the public versus the rights of individuals to determine their own health choices has remained a constant theme in public health ethics (Verweij 2007).

The late twentieth century saw a significant change in the philosophical orientation of public health. In 1986 the Ottawa Charter articulated a positive view of health and of the social, political, and environmental conditions for promoting health, in contrast to the disease-eradicating view that previously underpinned public health. The “new public health” that subsequently developed is concerned with the health effects of factors such as social supports, behavior, environment, lifestyle, and social capital and takes a holistic view of health as a state of well-being rather than the mere absence of disease (Baum 1998). Marmot’s (2001) pioneering research in the Whitehall studies demonstrated the link between social status and control with cardiovascular health, leading to a growing body of evidence about the importance of the social determinants of health, recognition of the importance of the biopsychosocial model of health, and a focus on the health needs of vulnerable populations.

Somewhat in parallel, formal accounts of public health ethics started to emerge (Beauchamp & Steinbock 1999; Thomas et al. 2002; Jennings et al. 2003; Bayer & Fairchild 2004; Rogers 2006; Powers & Faden 2006; Baylis, Kenny & Sherwin 2008). These accounts take seriously the role of social factors in generating ill health and the increased vulnerabilities of those who experience multiple levels of disadvantage. While there is no dominant account of public health ethics in the literature, most scholars take a broadly social justice approach, with the view that special duties are owed to the vulnerable. Thus, the public health focus on vulnerable populations is reflected in some of the concerns under debate in contemporary public health ethics.

Within public health practice, vulnerable populations have been identified as those who are more likely to suffer from an increased burden of ill health and therefore require extra support or protection. Vulnerable populations have been defined as “social groups who have an increased relative risk or susceptibility to adverse health outcomes” (Flaskerud & Winslow 1998, p. 70). The particular disadvantages that lead to increased risk of ill health may vary according to situation, but there is some consensus about the groups who are at high risk of suffering poor physical, psychological, or social health compared with those who are not members of these groups (see Box 1).

Work has also been done to identify risk factors for vulnerability. For example, the Agency for Healthcare Research and Quality defines vulnerable populations as those who, because of “financial circumstances or place of residence; health, age or functional or developmental status; ability to communicate effectively; presence of chronic or terminal illness or disability; or personal characteristics” are unable to safeguard their own needs and interests adequately (AHQR 1999, cited in Brock 2002a, p. 283). We might think of these

BOX 1 Groups at High Risk of Adverse Health Outcomes

High-risk mothers and children
Chronically ill and disabled persons
Mentally ill and disabled persons
Persons with AIDS
Alcohol and substance abusers
Suicide or homicide prone persons
Abusing families
Homeless persons
Immigrants and refugees

Source: Adapted from Aday (1994)

risk factors as individual sources of vulnerability, or as potential layers, per Luna's (2009) work in research ethics. In other public health literature, the definition of who is vulnerable is by implication rather than explicit. For example, one of the core public health competencies developed through a consultative process in Australia in 2000 is to "promote, develop and support actions to improve the health status of Aboriginal and Torres Strait Islander people and other vulnerable groups" (National Public Health Partnerships 2000). The extremely poor health status of Aboriginal and Torres Strait Islander peoples is well-known, as is the general level of disadvantage that many Aboriginal and Torres Strait Islander individuals experience in housing, employment, discrimination, education, and access to a range of social services. By extension then, we may understand *other vulnerable groups* to be those who suffer similar disadvantages.

The point of identifying vulnerable groups in public health practice is because vulnerability tracks increased risk of ill health. From the preceding lists, we can distinguish two different ways vulnerability to ill health is understood. First, what we might call social vulnerability serves as a marker for disadvantage. In this sense, *vulnerable* is shorthand for all of those who are the least privileged in whichever society they live. We know from literature on the social determinants of health that many kinds of deprivation and disadvantage—economic, educational, financial, occupational, social—are associated with poor health status. Insofar as the goods of society are inequitably distributed, there will be a related gradient of ill health. *Social vulnerability* is a useful term for describing individuals or groups or populations who suffer deprivation related to the social determinants of health, making them at higher risk of poor health. It is important to note the complex and compounding effects of social vulnerability: not only are those affected at increased risk of ill health, but also, by virtue of their social vulnerability, they may be limited in their capacity to look after themselves and their interests.

Homeless persons, for example, are at increased risk of physical injury and violence, exposure-related infectious diseases, and inadequate nutrition. Likewise, their homelessness makes it harder to access health care compared with those who have secure accommodation, and the stigma and discrimination associated with homelessness may further compound both health problems and the capacity to deal effectively with these (Brock 2002a). However, it is not always possible to disentangle exactly which facets of social vulnerability are the effects of ill health and which are causes. Poor mental health can be a cause of homelessness, which in turn exacerbates mental health disorders and increases the risk of other health problems; conversely, the social vulnerability caused by residence in an abusive family may precipitate poor mental health (Kirkengen 2010). Whether or not we can accurately distinguish cause and effect, examples such as the health effects of homelessness illustrate the complexity of the relations between various sources of vulnerability and highlight the need to seek a theoretical understanding of vulnerability that takes account of contextual and relational factors.

The second way vulnerability is used in the public health literature is to refer to those who already have some form of ill health that increases their risk of further ill health. Let us call this *medical vulnerability*. Those who are vulnerable in this sense already have compromised health status. For example, having a chronic illness such as diabetes or depression creates its own set of vulnerabilities such as dependence on medication, increased need for health care, and greater risk of morbidity. Social and medical vulnerabilities are distinct but, as discussed, often coexist and compound each other through complex interrelationships; the presence of ill health can exacerbate social vulnerability in relation to income support, access to health care, and need for care. Medical and social vulnerabilities may develop into a vicious cycle. Aboriginal and Torres Strait Islander peoples in Australia, for example, are vulnerable in both of these senses—to ill health secondary to a long history of dispossession, poverty, and discrimination and through ill health to ongoing cycles of disability, poverty, and premature death.

In parallel with this identification of the health inequalities associated with medical and social vulnerability, public health ethics has moved toward a social justice view in which the duty to promote positive health outcomes is tempered by a commitment to identifying and giving priority to those whose ill health is the result of systematic social disadvantage (Baylis, Kenny & Sherwin 2008; Powers & Faden 2006). Despite this emerging change in orientation, theories of justice in health are only just beginning to consider in detail exactly what duties are owed to the vulnerable. Brock (2002b) argues that this relative neglect is due to a number of factors, the first of which is the tendency within bioethics to focus on health care rather than health as the main object of theories of justice. There are pragmatic reasons for this focus, not least because some of the factors that affect health are beyond individual

or state control (e.g., genetically transmitted diseases) and hence beyond the reach of theories of justice, whereas it is possible to specify levels of health care and identify just conditions for its delivery. If however, justice in health is equated with access to health care, this leads to identifying lack of access to health care as the primary injustice and those with no access to health care as the most vulnerable. But as most of the causes of ill health and health inequalities are not related to access to health care, this can lead to a very narrow view as to who is vulnerable and to simplistic remedies for meeting their needs. In addition, access to health care has been claimed as a universal human right. If everyone has a right to health care, then the vulnerable do not merit special attention as they have the same right to health care as anyone else. However, a universal rights-based approach fails to take account of factors that impact differentially on people's capacities to exert their rights.

Brock (2002b) claims that "the most plausible ethical framework for considering the claims of vulnerable populations in health resource prioritization is that of priority for worse-off groups" (p. 287). He notes that while this does subsume the vulnerable into the more general descriptor of "worse off," it does not assimilate their claims within a general right to health care. Brock justifies a duty to give priority to the worse off in two ways: one related to greater relative gains and the second related to justice. First, the worse off a person is, the greater her relative improvement for a given benefit. The idea here is that if a very sick person has a 10% improvement in her health, this may increase her health status by 100% (e.g., from 10% to 20%), whereas a 10% improvement in the health of a less ill person will make a correspondingly lesser contribution to her overall health status (e.g., from 75% to 85%). Brock's second justification for priority to the vulnerable focuses on whether the source of the ill health results from injustice. On this view, those who are vulnerable because of conditions that themselves constitute a social injustice (e.g., poverty, homelessness, lack of education) and whose subsequent poor health further compounds the initial injustice have a prior claim on resources compared with those whose ill health cannot be attributed to social injustices (e.g., those with genetic disease, random accidents). In turn, this group suffering bad luck is considered more deserving than those whose voluntary actions (e.g., extreme sport, recreational drugs, unprotected sex) have contributed to their ill health. On this account, a homeless person with liver failure secondary to hepatitis caused by being stabbed with an infected needle would have higher priority for a transplant than a person with idiopathic liver failure, while a company director with liver failure secondary to her alcohol consumption would be lowest priority.

There are problems with these arguments for giving priority to the worse off. It is difficult to find a universal metric for illness, impairment, and pain, such that everyone can be assessed as better or worse off by the same measure; for example it is not clear how we might compare the severity of sensory impairments like blindness or deafness with physical illnesses such as appendicitis or

the urgency of preventing heart disease versus treating mental illness. There is also the bottomless pit problem—should there be limits on the amount of resources directed to the worse off? If not, relatively minor or infinitesimal improvements in their condition might outweigh significant health gains for those who are better off. The notion of desert is particularly problematic, as the boundaries between voluntary and involuntary behaviors can be blurred (many behaviors such as smoking, alcohol consumption, or illicit drug use may be deemed involuntary once dependence takes hold), and to ascertain culpability would be onerous, intrusive, and extremely impractical. However, these arguments for priority to the worse off do represent an explicit attempt to spell out the moral claims of vulnerability in the context of health care.

Other authors do not use the language of vulnerability in their treatment of justice in public health, but the concept is implicit within their accounts. Norman Daniels (1985), in his influential account of just health care, draws on the work of John Rawls and Amartya Sen to provide a framework for allocating health-care resources fairly. Daniels's concept of *normal species functioning* builds on the capabilities approach developed by Sen (2008), and aims to provide a normative framework to guide decision-making about the allocation of health-care resources over a normal life span.¹³ He argues that our guiding aim in allocating resources should be to enable individuals to attain or maintain normal species functioning so that they can then access the complete range of opportunities required to be fully cooperating members of society. On this account, priority goes to those with the greatest burden of ill health to correct for the impact of disease and disability and to return them as near as possible to normal function, irrespective of the origins of the ill health. Although Daniels does not use the term, we can consider those who receive priority on his account to be medically vulnerable. However, by linking health care to normal species functioning, Daniels seems to exclude from consideration those who cannot be restored to full function, such as the disabled or the aged, some of the most vulnerable individuals in society. On Daniels's account, the otherwise fit and able-bodied with acute medical problems are within the scope of justice, but those who cannot "get better" are excluded (Kittay 1999); his account thus privileges certain kinds of medical vulnerability only.

Daniels, Kennedy and Kawachi (2002) also argue that an extended account of justice as fairness includes goods such as education, housing, material well-being, and political participation, thereby offering a way to address the social determinants of health. However, while just distribution of these goods may address some social vulnerabilities, Daniels et al. fail to take account of the distribution of less tangible goods such as respect or care—relational goods that are just as important remedies for vulnerability as the provision of education or housing.

¹³ See chapter 1 by Mackenzie for discussion of the relevance of capabilities theory for understanding vulnerability.

More recently, Powers and Faden (2006) develop an account of social justice as the foundation of public health. On their account, there are six essential elements of well-being (health, personal security, reasoning, respect, attachment, and self-determination); serious deficiencies in one or more of these means that “it is likely that an individual is not experiencing a sufficient level of well being” (p. 15). Adequate possession of all six of these elements is taken to be a matter of justice. The authors recognize that deficiencies in one or more of the elements tend to cluster together, and in turn these patterned clusters track ill health. For example, a woman whose options for self-determination are severely curtailed through poverty may elect to become a sex worker, which in turn may threaten her self-respect and lose her the respect of others. The loss of respect together with the lack of protections afforded to sex workers may lead to physical and mental ill health, further curtailing her options. Powers and Faden do not make explicit mention of vulnerability other than in passing: “Our background assumption is that some persons are more vulnerable than others, and that all live lives of dependency and interdependency” (p. 30). As with clinical bioethics, in Powers and Faden’s work vulnerability remains a background assumption, and we are left without an account that explains how and why some are more vulnerable than others. Nor is the significance of dependency and interdependency explored: What are the connections between dependency and vulnerability,¹⁴ and how are these mediated in ways that ultimately support or undermine flourishing?

This brief review shows that in public health ethics explicit links have been made between vulnerability and justice, different types of vulnerability have been identified and described, and accounts of what is owed to the vulnerable have been developed. But as with research ethics, the definitions are largely descriptive and list-like rather than conceptual (a change in health policy or health-care delivery might deliver different lists of vulnerable groups); there is a tendency to label, with the attendant risks of discrimination and paternalism; and there is no comprehensive account of the responsibilities owed to the vulnerable in the way of protections, remedy, compensations, beneficence, or aid. This points to the need for greater explication of the theoretical connections between vulnerability and justice.

5. Conclusion

In this chapter I have shown many ways that vulnerability is a critical concept in bioethics. The fields of research ethics and public health ethics rely on the concept to identify individuals or groups who require special attention

¹⁴ For a detailed analysis of the relationship between vulnerability and dependency, see chapter 7 by Dodds.

or increased protection compared with an unspecified norm, while attention to vulnerability is implicit within many accounts of clinical ethics. As we have seen, there is a dual notion of vulnerability operating within bioethics. The concept has been recognized as universally applicable: as embodied beings we are all vulnerable in the face of health threats, decreased capacities, and our changing circumstances over time. Simultaneously, there is widespread recognition that extra duties of protections are owed to the especially vulnerable. This has led to something of a theoretical impasse, since these two classes of vulnerability are not well distinguished in either the bioethical or philosophical literature. In turn, lacking such clarity makes it difficult to identify the vulnerable and respond to their needs in morally defensible ways.

To move beyond this stalemate, we need an ethics of vulnerability that can answer the questions raised in this chapter. By taking vulnerability seriously, by attempting to understand just what it is that we identify when we find a person or group to be vulnerable, there is potential to provide a major reorientation or shift within bioethics. As discussed at the beginning of this chapter, bioethics has been strongly shaped by research ethics and the ethics of the clinical encounter. This has led to a focus on certain key concepts, particularly respect for autonomy and informed consent, and how these can be protected within the confines of the consultation or the research ethics review process. This is an important task as there is no doubt that, absent such protections, vulnerable individuals are harmed in various ways. However, we need a deeper understanding of vulnerability in order to grasp the significance of, and respond to specific vulnerabilities of patients or research participants or populations. A serious focus on vulnerability will both allow us and force us to look beyond the often procedural issue of informed consent to broader issues such as vulnerability arising from the structure of the research enterprise or the shape and direction of the research agenda. Addressing vulnerability is more than just a matter of improving consent procedures—it includes questioning the nature of the research itself.

A focus within bioethics on vulnerability highlights our common humanity and may thereby offer grounds for increased attention to community and solidarity. Baylis and colleagues (2008) and others (see, e.g., Jennings 2007) have identified the importance of solidarity as a value in public health ethics, but this consideration has not extended to bioethics more widely. We can, however, build on social justice approaches in public health to develop our understanding of the links between vulnerability and solidarity. As biological and social beings, we share much vulnerability—to ill health, to bad luck, to natural and man-made disasters. Although these and other vulnerabilities are not equally distributed, none of us are invulnerable. We all have some experience and understanding of what it is to feel vulnerable. Appealing to our shared inherent vulnerability is one way of grounding solidarity as a value in bioethics

in a way that may avoid a divisive us or them mentality and go beyond self interest or prudential concerns.

An ethics of vulnerability must be capable of addressing problems associated with current uses of vulnerability in bioethics. One of the problems with labeling, both in research ethics and in public health, is that the identification of a group or individual as vulnerable marks that group or person out for special attention but does not offer direction as to what that attention should be. An ethics of vulnerability linked to autonomy or capabilities¹⁵ may provide one way forward. Such an ethics must be able to specify the grounds for duties owed the vulnerable and to examine any differences between vulnerability experienced by individuals compared with groups or populations.

Finally, attention to vulnerability may provide us with analytic tools for examining potential harms in health policies. For example, the concept of pathogenic vulnerability can be useful in assessing the effects of health policies (Rogers, Mackenzie & Dodds 2012; see also the Introduction in this volume). Pathogenic vulnerability refers to the ways that interventions such as health policy can compound or create vulnerability. The methods employed in policy implementation may be paternalistic or disrespectful such that existing vulnerabilities are exacerbated or the policy goals may, through blindness to existing vulnerabilities, lead to worse outcomes. Using vulnerability as an explicit motivating concept in bioethics may provide a way of identifying and avoiding such policies.

Clarifying our understanding of vulnerability and of what the vulnerable are owed is a critical endeavor. This is no small task, but the potential benefits are great given the implicit and explicit relevance of vulnerability for clinical, research, and public health ethics.

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¹⁵ For further discussion, see chapter 1 by Mackenzie.

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The Role of Vulnerability in Kantian Ethics

Paul Formosa

Does the fact that humans are vulnerable, needy, and dependent beings play an important role in Kantian ethics? It is sometimes claimed that it cannot and does not. I argue that it can and does. I distinguish between broad (all persons are vulnerable) and narrow (only some persons are vulnerable) senses of vulnerability and explain the role of vulnerability in both senses in Kantian ethics. The basis of this argument is to show that the core normative focus of Kantian ethics is on the dignity that human beings have in virtue of their capacity for rational agency. This implies that the empirical conditions under which human beings can acquire, sustain, exercise, and develop their rational capacities are of core moral importance in Kantian ethics. This explains why human vulnerabilities, including the vulnerability of human bodies, are important in Kantian ethics, since rational capacities in human agents (and the bodies those rational capacities depend on) are highly vulnerable in all persons (vulnerability in the broad sense) and especially vulnerable in some subgroups of persons (vulnerability in the narrow sense).

Does the fact that humans are vulnerable, needy, and dependent beings play an important role in Kantian ethics? It is sometimes claimed that it does not and cannot (Harris 1997, pp. 53–77). After all, isn't Kantian ethics based solely on an a priori moral law that leaves no room for contingent facts about human vulnerability? I shall argue that this claim is mistaken. The core normative focus of Kantian ethics is on the dignity or absolute worth that human beings have in virtue of their capacity for rational agency. This implies that the empirical conditions under which human beings can acquire, sustain, exercise, and develop their rational capacities are of core moral importance in Kantian ethics. This is where human vulnerabilities, including the vulnerability of human bodies, enter the picture since rational capacities in human agents (and the bodies those rational capacities depend on) are highly vulnerable and fragile. To defend these claims, I shall, in section 1, examine what vulnerability is and, in section 2, argue that there are broad and narrow senses

of vulnerability. Next, in section 3, I shall defend the claim that vulnerability *can* play an important role in Kantian ethics. Finally, I will detail *what* that important role is by showing, in section 4, the role that vulnerability in the broad sense plays in the derivation of duties and, in section 5, the role that vulnerability in the narrow sense plays in the fulfilment of duties. However, the positive account defended in sections 4 and 5 should be understood not as an *exhaustive* account but merely as an overview of *some* of the roles that vulnerability plays in Kantian ethics.

1. Vulnerability

To be vulnerable is to be susceptible to harm, injury, failure, or misuse. For example, an individual person can be *vulnerable* to assault, a group of persons to genocide, a species to extinction, a delicate vase to breaking, an argument to being refuted, and an outdoor concert to being cancelled due to bad weather. But an individual person is *invulnerable* to genocide, a group of persons to murder (but not massacre), a vase to cancellation due to bad weather, and an outdoor concert to assault. Vulnerability implies that *x is susceptible to y being inflicted by z*, where y is some harm, injury, failure, or misuse, and x and z are some person, animal, object, event, or group.¹ However, not anything can be the subject (x term) of vulnerability. For example, we would not speak of a rock or a piece of dirt as being vulnerable. This is because we do not think that a rock or a piece of dirt can fail, be harmed, or be injured. At worst it can be *changed* by, for example, being broken in half. Of course, if the rock is actually an ancient artefact then it would be susceptible to damage because artefacts, unlike mere rocks, can be damaged. This implies that the y term must count as a negative *for* the x term. It makes no sense, for example, to say that a person is vulnerable to some good or benefit, such as a pay rise or a holiday, unless what is meant is that the so-called good or benefit is really a harm in disguise.

But we sometimes speak about vulnerabilities or the vulnerable without being either explicit or specific. In this case the missing x, y, or z terms are either *implied* or *unspecified*. For example, when we talk of a vulnerable species (x term), it is implied that we mean that the species is vulnerable to extinction (y term) from, for example, deforestation and hunting (z terms). In other cases it is left unspecified. For example, when we talk of the vulnerability of children we leave it unspecified which harms we are referring to (y term) and

¹ Goodin (1985, p. 112) argues that where the harm is *inevitable*, vulnerability is the wrong word. He says "it would be odd to say that the condemned man is (merely) vulnerable to the hangman." This seems mistaken. For while it is wrong to say that the condemned man is *merely* vulnerable to the hangman, it is not wrong to say that he *is* vulnerable to the hangman, even though the harm is inevitable.

why children suffer them (z term). This is because there are *many* things that children are vulnerable to and many ways they could come to suffer them and we mean to refer to *all* those cases. Vulnerability can also be a matter of *degree*, where the contrast is between *more* or *less* vulnerability, and a *binary* term, where the contrast is between *vulnerability* (to any degree) and *invulnerability*. For example, women are invulnerable to testicular cancer, while older men are much more vulnerable to it than younger men.

This account of vulnerability is wider in scope than the one Robert Goodin (1985) defends. He limits vulnerability to *someone* (x) being *dependent* on *someone* (z) for something, where the harm (y) involves x not getting what he or she depends on z for (p. 112). This account of vulnerability is too narrow. This is because we can speak not just of persons but also of things and events being vulnerable. For example, a vase is vulnerable to being broken, an event to being cancelled, and an argument to being refuted. And we can also speak of persons and their plans being vulnerable to not just other persons but also things and events, such as cancelled concerts and tsunamis. Further, some vulnerabilities arise not because others fail to give us what we *depend* on them for, such as love or food, but because we *can't depend* on them not to actively attack us, and that is why we are so vulnerable.

But not all human vulnerabilities are equally important, unjust, or bad. Kantian ethics, for example, focuses on the importance of the vulnerability of human beings to attacks on, interferences with the proper exercise of, and failures to sustain and cultivate their capacities for rational agency. Whether or not it is unjust that a person has certain vulnerabilities or has such a high degree of those vulnerabilities will depend on whether the source of those vulnerabilities is an injustice. For example, it may be unjust that I am very vulnerable to starvation if this is due to an unjust distribution of food, but not if this is due to my own folly in getting lost in the desert. Some vulnerabilities are bad, such as our vulnerability to the polio virus, and it is good if we can make ourselves less vulnerable or invulnerable to it. Other vulnerabilities are not worth avoiding, eliminating or reducing. For example, you can reduce your vulnerability to acts of disloyalty by not trusting your friends, or eliminate that vulnerability by not having friends. But this is not worth doing because you would thereby miss out on something, trusting friendships, which are of great worth. Finally, some vulnerabilities are themselves valuable and thus not bad. For example, a game is interesting only if you are vulnerable to losing. And intentionally *increasing* your vulnerability by, for example, climbing a mountain without safety equipment can make that activity more interesting and exciting. As such, while some vulnerabilities are unjust or bad and can and should be eliminated or reduced, other vulnerabilities are neither unjust nor bad and should be neither eliminated nor reduced.

2. The Narrow and Broad Senses of Vulnerability

In the recent literature on vulnerability, especially in the areas of bioethics and research ethics, two competing conceptions of vulnerability have emerged. Defenders of the first conception, which I shall call the *broad* sense of vulnerability, understand vulnerability to refer to the general fragility of human life. Defenders of this view stress the fact that we are *all* vulnerable (see, e.g., Kottow 2003, 2004; Nussbaum 1992; Rendtorff 2002). As such we should not lament or seek to eliminate but rather “acknowledge” our vulnerability as an “essential attribute” (Kottow 2004, p. 283). Defenders of the second conception, which I shall call the *narrow* sense of vulnerability, claim that we count as a vulnerable person or group only if we are *more* or *much more* susceptible than others to certain harms, injuries, failures, or misuses (Schroeder & Gefenas 2009, p. 113). On this conception only members of vulnerable *subpopulations* count as vulnerable, and the vulnerable are understood to need special protections. Subpopulations who are said to be vulnerable include children, the mentally ill or mentally disabled, prisoners, enlistees in the military, pregnant women, and the economically or educationally disadvantaged (Kipnis 2001, p. 1).

Both the narrow and the broad senses of vulnerability emphasise different aspects of the account of vulnerability that I outlined briefly in the first section. The broad conception focuses on vulnerability to *any* degree. Here the primary contrast is with those who are invulnerable. The narrow conception focuses on a *high degree* of vulnerability. Here the primary contrast is with those who are less vulnerable. Those who do not count as vulnerable in the narrow sense are not necessarily invulnerable in the broad sense. For example, men do not count as vulnerable to breast cancer in the narrow sense since they are not members of a vulnerable subpopulation, but they still count as vulnerable in the broad sense because they can develop breast cancer. However, a number of problems can arise when one of the narrow or broad senses of vulnerability are understood alone as a self-standing and complete conception of vulnerability, rather than (as is done here) as both complementary aspects of an account of vulnerability.

The broad conception faces the problem that if *everyone* is vulnerable, then vulnerability becomes a practically useless concept because it does not help us to identify those who require *special* protection (Schroeder & Gefenas 2009, p. 113). Another problem is that the approach of acknowledging vulnerability tends to *normalise* all vulnerabilities (Rendtorff 2002, p. 237). This can lead to an acquiescent attitude toward *all* vulnerabilities, including those that are bad or unjust and can be practically reduced or eliminated. The narrow conception faces the opposite problem that it *pathologises* all vulnerabilities. This can lead to failures to acknowledge the vulnerabilities that are central to the human condition and to see that not all vulnerabilities are bad or unjust. A second

problem with the narrow conception is that when we focus on vulnerable sub-populations we face the problem that “not everybody is alike” (Luna 2009, p. 123). Some people who are members of a vulnerable subpopulation might not really be particularly vulnerable, and others who are not members may be particularly vulnerable. A third problem is that labelling members of a group as *vulnerable* can be demeaning and disempowering since it leads to them being seen by themselves and others as purely passive and helpless objects of pity (Ruof 2004, pp. 412, 419).

However, the force of these various problems can be alleviated by understanding that the broad and narrow senses of vulnerability are both complementary aspects of an account of vulnerability (such as the one outlined in section 1). Then we can say both that we are all vulnerable and that some of us are much more vulnerable than others, and this helps to remove any demeaning connotations associated with vulnerability. We can also say that some vulnerabilities are bad, some are unjust, and others are neither bad nor unjust. This neither pathologises nor normalises all vulnerabilities. However, it can be useful for practical purposes to focus on either the broad or narrow senses of vulnerability, and for this reason we shall focus in the following sections on the important role that both senses of vulnerability play in Kantian ethics.

3. Can Vulnerability Play a Role in Kantian Ethics?

Before we can detail *what* role vulnerability plays in Kantian ethics, we first need to answer the worry that it *cannot* have any role whatsoever (Harris 1997, pp. 53–77). This worry can take a number of forms. We shall examine three versions here. First, a conceptual worry: Kantian ethics is based on an a priori moral principle and as such cannot take into account *contingent* facts about human vulnerability. Second, a metaphysical worry: Kantian ethics is based on an implausible metaphysics and an unrealistic idealisation of human agency that makes it incompatible with facts about human vulnerability. Third, a practical worry: Kantian ethics is an ethics of autonomy, but autonomy implies an ideal of a detached, unencumbered, and independent rational agent. This ideal is incompatible with acknowledging the vulnerabilities of human agency.

The first worry is easy to deal with. As Kant (1996c) notes, “A metaphysics of morals cannot dispense with principles of application, and we shall often have to take as our object the particular *nature* of human beings, which is cognized only by experience, in order to *show* in it what can be inferred from universal moral principles” (Kant 1996c, p. 6:217).² We need anthropology or

² Citations to Kant’s texts use the volume and page number of the Deutschen Akademie der Wissenschaften edition. Wood (1999, pp. 195–196) argues that Kant’s position here represents a shift from his earlier position in the *Groundwork of the Metaphysics of Morals*.

empirical knowledge about human nature in general, including the common vulnerabilities to which humans are subject, to *apply* the categorical imperative to human beings. That means, as has been noted by others (e.g., Herman 1993, p. 59; Loudon 2000, p. 11; O'Neill 1996, pp. 100–113), that the categorical imperative can ground different duties for different species of finite rational beings who have different vulnerabilities. And the claim that we cannot apply the categorical imperative a priori to human agents is perfectly compatible, again as has been noted by others (Wood 1999, pp. 195–196), with the claim that the categorical imperative is itself an a priori principle of practical reason. It is also compatible with Kant's repeated warnings that we must not *weaken* moral requirements to make them easier to meet (Kant 1996c, p. 6:217).

The second worry raises questions about Kant's alleged *idealisation* of human agency. According to Onora O'Neill (1996, pp. 40–41) we idealise when we ascribe "predicates—often seen as enhanced, 'ideal' predicates—that are false of the case in hand." For example, we idealise when we assume that human beings "have capacities and capabilities for rational choice or self-sufficiency or independence from others that are evidently not achieved by many or even any actual human beings." Failing to acknowledge the vulnerabilities that humans are subject to is one way to idealise human agency. Does Kant make idealising assumptions about human agents? It is clear that he does not if we turn to his broader writings on ethics, history, religion, and anthropology. The picture of human beings that emerges from these writings is that of a frail, impure, and perverse agent. A being who is capable of acting for the sake of the moral law alone but whose most fundamental disposition is to favour his own self-interest (Formosa 2007). A being who is capable of not just prudential evils motivated by self-interest but also imprudent evils motivated by revenge, hatred, envy, malice, ideology, and a desire for power (Formosa 2009). A being who can be dominated by the will and thoughts of others and by his own desires and emotions but who can also free himself from domination by obtaining a high degree of self-government or autocracy (Kant 1996c, p. 6:383). A being who has needs, desires, emotions, and incentives that he can sometimes control but who is also subject to affects and passions that can be so powerful that he cannot control or master them (Denis 2000). A being who needs and enjoys social interaction and is capable of developing a sense of love and respect for all humans but who is also unsociable and wants to dominate others (Formosa 2010). A being who begins life completely dependent on others and whose personal moral development is significantly influenced by the moral development of the historical culture into which he is socialised (Formosa 2011). In short, we get a picture of human agency that is not idealised but all too human.

But what about Kant's underlying metaphysics of agency? Isn't this where problematic idealisations enter the picture? What Kantian ethics must assume about human agents, insofar as they are both lawgivers and subjects of the

moral law, is that they have what Kant calls *human* choice as opposed to *animal* choice. Animal choice (*arbitrium brutum*) is choice that “can be determined only by *inclination* (sensible impulse, *stimulus*).” Human choice, in contrast, “can indeed be *affected* but not *determined* by impulses, and is therefore of itself (apart from an acquired proficiency of reason) not pure but can still be determined to actions by pure will” (Kant 1996c, p. 6:213). In animal choice there is no gap between sensible impulse and choice. In human choice there is such a gap (Searle 2001). This means that we can, sometimes but certainly not always, step back from our desires and emotions and ask ourselves what we have *reason* to do, where the categorical imperative is understood as playing a central role in determining what we have reason to do. And we can act on the basis of our reflection about what we have reason to do (Kant 1996c, pp. 6:213–214). That we have what Kant calls human choice must be a central assumption of any plausible account of human agency. This is because it makes no sense to speak of human *agency* without the assumption that humans can act on the basis of reasons.³ But none of this denies that the development, cultivation, and maintenance of the capacity for human choice are vulnerable to all sorts of harms, failures, and interferences. Indeed, these very vulnerabilities, as we shall see, are a core focus of Kantian ethics.

Finally, we need to address the worry that the ideal of Kantian autonomy is incompatible with acknowledging human vulnerabilities. But Kantian autonomy doesn’t imply an ideal of rugged individualism (O’Neill 1989, p. 75). To see why, we first need to note that two senses of autonomy can be located in Kant’s work. In the first sense, autonomy is a property of a will that is subject to the categorical imperative. Autonomy, in this sense, is not something to aim at but something that we have (or don’t have). In this sense we *are* all autonomous. As O’Neill puts it, “Autonomy is not the special achievement of the most independent, but a property of any reasoning being” (p. 76). A second sense of autonomy can be developed out of Kant’s account of *autocracy* or rational self-government (Guyer 2005, pp. 136–141). Autonomy, in this sense, is a fragile achievement that comes in degrees and is never fully secure. It constitutes an ideal to aim at in which we govern ourselves on the basis of reason and in accordance with the categorical imperative. When we achieve (or approximate) this ideal, we are free from domination by other people and our own desires and emotions (Guyer 2005, p. 116). In this sense we are clearly not all autonomous. But being free from *domination* by others does not require that you be *independent* of others, just as being free from domination by your own desires and emotions does not require that you have no desires and emotions. As such, nothing in Kant’s account of autonomy implies that being a dependent and vulnerable being is incompatible with being autonomous in either

³ While this assumption is common its metaphysical foundations are controversial—see, for example, Guyer (2005, p. 126), Korsgaard (1996, p. 176), and O’Neill (1989, p. 169).

sense of the term. So there is no reason why vulnerability cannot play an important role in Kantian ethics.

4. The Role of Vulnerability in the Broad Sense in Kantian Ethics

In this section we shall look at the important role that vulnerability in the broad sense plays in the application of, or the derivation of duties from, the categorical imperative. It is vulnerability in the broad (and not in the narrow) sense that is most important here, for what matters in deriving ethical duties is that someone *is* vulnerable to *some degree*. For example, if Michael and Mary are both vulnerable in the broad sense to deception, the fact that Mary is much more vulnerable to deception than Michael does not affect the fact that I have a duty not to deceive either of them. We shall examine the role of vulnerability in the narrow sense in the next section. Although the role of vulnerability in Kantian ethics has been mentioned before, primarily by O'Neill (1996) and Barbara Herman (1993), it has not yet been examined in the detail that I shall attempt here or in the context of discussions of vulnerability in the wider literature.

Ethical duties, for Kant, can be divided into perfect and imperfect duties. A perfect duty is a duty *to do or omit some specific action*, such as my duty not to lie to you to enrich myself. An imperfect duty is a duty *to make an obligatory general end my own*, such as the duty to make it my end to promote the happiness of others. Since imperfect duties require the adopting of general ends rather than the committing or omitting of specific actions, they allow for much more leeway in how agents fulfil those duties compared with perfect duties. Further, perfect and imperfect duties can be *directly* or *indirectly* binding. They are directly binding, or direct duties, if they follow directly from the categorical imperative itself. These duties are moral requirements that we must fulfil because the categorical imperative demands them. Duties are indirectly binding, or indirect duties, if they do not follow directly from the categorical imperative itself but are binding only because the failure to fulfil them makes it harder for you to fulfil your direct moral duties (Timmermann 2006a). For example, Kant argues that it is an indirect imperfect duty to make it your end to promote your own happiness, not because this is directly required by the categorical imperative (then it would be a direct duty) but because want of satisfaction with your condition tends to be a strong motive for acting immorally.

To show the role of vulnerability in the derivation of duties we shall focus solely on one formulation of the categorical imperative, the Formula of Humanity (FH). We shall focus on FH because Kant considers it to be the most intuitively compelling formulation of the categorical imperative (Denis 1997, pp. 324–325).⁴ FH states: “*So act that you use the humanity, whether in your own*

⁴ The other main formulations of the categorical imperative, which we will not look at here, are the formula of universal law and the kingdom of ends formula.

person or in the person of any other, always at the same time as an end and never merely as a means" (Kant 1996b, p. 4:429). By the humanity *in us* Kant does not mean to refer to something specific about our species (Guyer 2006, p. 186) but to the *rational capacities* in persons.⁵ When we fail to treat ourselves or others in accordance with FH, we act in ways that are incompatible (in the case of perfect duties) or fail to harmonise with (in the case of imperfect duties) the dignity that rational persons possess in virtue of their rational capacities. From this formula we can derive, or ground, direct perfect and imperfect duties to ourselves and others.

4.1. PERFECT DUTIES

From FH it follows that there is a perfect duty not to use your own rational capacities, or the humanity in you, as a mere means. You use your own rational capacities as a mere means either when you damage or destroy your rational capacities, permanently or temporarily, for the sake of a merely desired end or when you express disrespect for them (Denis 1997). But to apply this requirement to human beings we need to know the contingent ways that the rational capacities in human beings are vulnerable in the broad sense to damage and destruction and what counts as expressions of disrespect. In particular, we need to know that for humans the "body constitutes a part of our self" since "the use of our freedom is possible only through the body" (Kant 1997, p. 27:369). Because of the dependence of our rational capacities on our bodies, our rational capacities are vulnerable to damage and destruction by, for example, self-harming and suicide (Kant 1996c, p. 6:422), selling our integral parts or organs (Kant 1996c, p. 6:423), stupefying ourselves by the excessive use of alcohol (Kant 1996c, p. 6:427), and failing to meet our "true needs"⁶ on principle (Kant 1996c, p. 6:432). We therefore owe ourselves a duty not to commit these acts for the sake of merely desired ends.⁷ These generic midlevel duties also imply, when combined with facts about human vulnerability, that we have lower-level duties not to, for example, cut our wrists, hang ourselves, take a lethal overdose of painkillers, or fail on principle to meet our true needs for water, food, shelter, and companionship.

But if our rational capacities were not dependent on, and thus vulnerable to, our bodies, if we could "slip out of one body and enter another, like a country, then we could dispose over the body... [according] to our free choice" (Kant

⁵ Although there is disagreement about *which* rational capacities Kant is referring to – see, for example, Dean (2006), Denis (2011), Timmermann (2006b).

⁶ True needs, according to Herman (1993, p. 55), are needs for things necessary "to function (or continue to function) as a rational, end-setting agent."

⁷ But to merely *risk* damage to your rational capacities for the sake of a merely desired end is not necessarily wrong, provided that there is no intention to harm yourself; see Kant (1997, p. 27:372).

1997, p. 27:369). A species of rational beings who could simply slip from one body to another would not, then, be subject to a duty not to harm their bodies or to sell their organs any more than we are subject to a duty not to leave our country or sell our unwanted possessions. More generally, if the rational capacities of some other species of rational being were invulnerable to, for example, the excessive use of alcohol, acts of bodily self-harm, or principled failures to obtain water, shelter, or companionship, then such beings would have no duty (all else being equal) not to commit these acts. But since, due to the fragility of our bodies and thus our rational capacities, we are not invulnerable in these ways, we owe ourselves a duty not to commit such acts.

From FH it also follows that there is a perfect duty not to use others as a mere means. I use another merely as a means, says Kant (1996b, p. 4:430), when he “cannot possibly agree [or consent] to my way of behaving toward him.” But what is meant here by possible consent? Unfortunately, the role and operation of possible consent in FH is both complicated and contested (see, e.g., Kerstein 2009; Korsgaard 1996, pp. 137–146; Parfit 2011, pp. 177–257), so what follows here can be only a brief and incomplete account of possible consent, since anything more detailed would take us too far afield. As I shall understand it here and as I have defended it elsewhere (Formosa 2013), you use other persons and their rational capacities as a mere means when you fail to interact with them on terms which they could possibly consent to for the sake of a merely desired end or when you express disrespect for them. And *possible* consent, in turn, requires *actual* consent except under two specific conditions. These specific conditions obtain only when, first, you are *rationally required* (or forbidden) to will some specific end (see also Kerstein 2008, p. 215) or, second, when you cannot will any end at all due to a (temporary or permanent) loss of your rational capacities. First, the actions that we are, for Kant, rationally required (or forbidden) to will in this sense are those already covered by *perfect* duties to oneself, which forbid us from damaging, destroying, or expressing disrespect for our own rational capacities (e.g., by you consenting to be my slave) and those required by legitimate acts of political will (e.g., enforcement of just laws by the state).⁸ Second, when actual consent cannot be obtained because a person is not competent to give authorising consent due to the loss or absence of their rational capacities,⁹ then some form of surrogate decision-making can be justified. This could justify, for example, my performing CPR on you to

⁸ On the latter see also Pallikathayil (2010). Legitimate acts of political will are those lawgiving acts of which all citizens can regard themselves as free, equal, and independent lawgivers; see Formosa (2008).

⁹ But do humans who completely and permanently lack any rational capacities have *any* moral standing under FH? What about those who only temporarily lack rational capacities or who are yet to develop them (such as infants)? However, since I cannot address these important questions here I will assume that *all* humans have a moral status under FH. For discussion see Kain (2009).

save your life even though you cannot actually consent to this because you are unconscious.¹⁰

Otherwise, except under these two conditions, FH requires that we obtain another's actual free and informed consent to do something to or with her. And when we gain such consent we gain an authorisation that we did not have beforehand. For example, if I take your car without your consent then I act wrongly, but if I take it with your consent then I do not act wrongly because you have authorised me to take it. This means that we act wrongly, according to FH, when we violently assault, coerce, lie to, or steal from others for the sake of merely desired ends, since when we act in any of these ways we treat others in ways that they cannot possibly, and do not actually, consent to. Such actions are wrong in part because they unjustifiably damage or destroy the rational capacities of other persons or unjustifiably interfere with the proper exercise of their rational capacities. While these duties depend primarily on the logic of possible consent, human vulnerabilities do still play a secondary role in the statement of these duties. For example, the reason that I cannot possibly consent to you buying my vital organs for a merely discretionary end (e.g., my financial gain) is that I am rationally forbidden from willing this end since I have a perfect duty to myself, based on the vulnerability of my embodied self's rational capacities, not to do so.

Other actions, such as being contemptuous of others, are wrong according to FH because they *express disrespect* for others, whether or not they also damage or interfere with the exercise of another's rational capacities (Kant 1996c, p. 6:463). Exploitation is an important example of this because the exploited can consent to, and benefit from, being exploited (Wood 1995). As such their rational capacities may be neither damaged nor the exercise of those capacities interfered with by the exploiter. An interaction is wrongfully exploitative (according to Valdman (2009)) if one party (the exploiter) extracts *excessive* benefits from another party (the exploited) who cannot, or cannot reasonably, refuse his offer.¹¹ For example, if I use the fact that I run the only food store in a town which has just been completely isolated by floods to charge excessively high prices for essential goods (1,000 times what I charged before the floods), then I exploit my customers. I don't coerce them to buy my goods, they can go without if they wish, and they benefit when they buy them since

¹⁰ However, while this shows us that FH can *allow* for some form of surrogate decision-making in cases where others are unable to give authorising consent or dissent, it does not, as yet, show us *how* to justifiably make and assess surrogate decisions. This is a further issue and one that we shall return to only briefly later.

¹¹ According to Valdman (2009) a benefit is excessive if it falls outside the range of prices which a buyer and seller would agree to if both were informed and if neither had unacceptable nontransaction costs (the costs incurred by refusing to accept an offer). An offer is one that you cannot reasonably refuse if you would incur unacceptable nontransaction costs or you are unable to refuse the offer. You are likely to incur unacceptable nontransaction costs only when you have urgent needs to meet and only a monopolist can satisfy them.

my goods are sound. But I exploit them because I use the fact that they cannot reasonably refuse to buy my goods, or else they will starve, to extract excessive benefits from them. According to FH exploitation is wrong, even if the consent of the exploited is obtained, because the exploiter *expresses disrespect* for those he exploits (Wood 1995, pp. 150–151). On Kant's account we express disrespect for others when we do not treat them as having an equal share in the giving of universal laws. When we choose to interact together we both lay down a law for how we shall interact. But in cases of exploitation you do not treat me as having an *equal share* in laying down the terms of our engagement. Instead you use the fact that I cannot reasonably refuse your offer to *unilaterally* or *unequally* lay down terms that benefit you excessively. If I could reasonably refuse your terms then I would. As such, by not treating me as an *equal* lawgiver over the terms of our interaction you express disrespect for me and thereby use me as a mere means. Exploitation is an important case for Kantian ethics to be able to account for since, as we shall see, it is often the most vulnerable who are exploited.

4.2. IMPERFECT DUTIES

Kant argues that we have imperfect duties to promote our own self-perfection, the happiness (or permissible self-given ends) of other rational agents (1996c, p. 6:385), the safeguarding of the rights of all human beings (1996c, p. 6:390), the achievement of a cosmopolitan condition of perpetual peace (1996c, p. 6:354), the development of voluntary moral communities (1996d, pp. 6:93–95), and the achievement of the highest good in which each deserves the happiness that he or she has (1996a, p. 5:113). However, we shall focus, as Kant does in *The Metaphysics of Morals*, only on the duties to promote our own self-perfection and the happiness of others. Promoting these general ends is morally obligatory because, if humans have an objective worth or dignity in virtue of their possession of (or potential for developing) rational capacities, then ends that promote and cultivate those rational capacities (i.e., self-perfection) or are the result of the proper exercise of those rational capacities (i.e., happiness) are also objectively valuable. Vulnerability plays an important role in both these duties.

The duty of self-perfection requires that you promote your natural and moral perfection. Natural perfection aids your rational capacities by making you better able to carry out the means to your ends and by improving your capacity to judge the worth of your ends. Natural perfection includes cultivating and improving your powers of mind (e.g., your capacities for reasoning theoretically), powers of soul (e.g., your memory, taste, imagination, and understanding), and powers of body (e.g., your ability to do various things with your body) (Kant 1996c, pp. 6:444–446). Moral self-perfection aids your rational

capacities by making you more aware of, and responsive to, the demands of reason itself (Kant 1996c, p. 6:387, pp. 6:392–393). To morally perfect yourself you must seek to acquire a disposition of taking the incentive of respect for the law to be sufficient and unconditional and become more virtuous. But it is conceivable that there could be a species of rational beings for whom the full perfection of their rational capacities does not emerge only contingently and gradually over time. Such beings would emerge as fully formed and perfected rational agents, and this means that they would not be subject to a duty of self-perfection. But since the achievement of basic rational capacities and the full perfection of those capacities are, in human beings, vulnerable to failure on many fronts, human agents have a duty to perfect themselves.

Indeed, Kant gives a detailed account of how this process of moral development, from purely dependent infancy to the full perfection of our rational capacities, can and ought to unfold through three distinct and overlapping stages (Formosa 2011). The first stage involves physical education, which includes the provision of love and care for the infant, and disciplining, which teaches the child not to follow his every whim and to accept limitations on his freedom. The second stage involves cultivating, which teaches the child various skills as means to his ends, and civilising, through which the child learns to judge the worth of his ends. The final stage, moralising, is an ongoing stage that begins to unfold when the young adult starts to act on rationally valid norms out of attitudes of love and respect for both himself and all other persons. Of course, in the early stages of development this process is one that must be done entirely *for* children by parents and guardians.¹² This makes children vulnerable to failures by others because the very development of their rational capacities is partly dependent on the actions and surrogate decision making of others. For example, Kant (2007) thinks that if “children are accustomed [by the actions of others] to having all their whims fulfilled . . . their heart and their morals are thereby spoiled” and this can be repaired afterwards only with great difficulty (p. 9:460). However, over time, the process of self-development is one that we must each gradually take over as our own autonomous project.

But even when we are adults the process of self-development is still vulnerable to factors outside of our control, in particular to the attitudes that others express toward us. This is because our attitudes of respect and love for ourselves and other people and our direct interest in the moral law itself, all of which are essential for the full perfection of our rational capacities,¹³ are

¹² Kant (1996c, p. 6:280) argues that parents incur a duty to care for their children until they can care for themselves because they “have brought a person into the world without his consent.”

¹³ See Kant (1996b, pp. 6:399–403), who says that we must simply presuppose moral feeling, conscience, love of human beings, and self-respect as preconditions of the mind’s receptivity to duty. However, Kant makes it clear that each of these can be cultivated and strengthened as well as neglected and weakened. As such, while we must presuppose a *capacity* to have or to develop these attitudes, we cannot presuppose that agents *have* strong and cultivated versions of these attitudes.

vulnerable to the expressed attitudes of others.¹⁴ Our self-respect, an attitude of taking ourselves to have dignity and an equal share in the giving of universal law, is vulnerable to attitudes of contempt and ridicule directed towards us and our judgments. For example, Kant (1996c, p. 6:463) claims that if you contemptuously mock and ridicule another's errors "by calling them absurdities, poor judgment and so forth" then you make it very difficult for him "to preserve his respect for his own understanding." When others contemptuously treat us as if we were worth less as a person, or mock and ridicule our practical judgments, then it can be very difficult to preserve, or develop in the first place, respect for ourselves and our own judgment. But without respect for ourselves we will tend to remain in a condition of "minority" in which we deferentially let others do our thinking for us (Formosa 2010, pp. 7–9, 28–29). Moral feeling, that is, an attitude of taking a direct interest in the moral law itself, is particularly vulnerable to the publicising of the misdeeds of others. When others bring "into the open something prejudicial to respect for others" this "weakens that respect [for others], on which the impetus to the morally good rests" by making people "sceptical" about morality. This also helps to make "misanthropy... or contempt the prevalent cast of mind," which in turn "dulls one's moral feeling" (Kant 1996c, p. 6:466). When moral scepticism and contempt have become the prevalent attitude toward morality, it can become very difficult to maintain an attitude of respect for, and a direct interest in, the moral law. Although Kant thinks that a lack of self-love, an attitude of taking our own ends and projects to be valuable, is not normally a problem,¹⁵ he does recognise the vulnerability of our self-love. This is because "our self-love cannot be separated from our need to be loved (helped in case of need) by others" (Kant 1996c, p. 6:393). If others never express love for us, at least in the sense of helping us, it can be difficult to maintain our self-love. Our benevolent attitude of love for others is particularly vulnerable to acts of ingratitude. This is because acts of ingratitude "can destroy the moral incentive to beneficence in its very principle" (Kant 1996c, p. 6:455). If others return our acts of beneficence with ingratitude then that makes it difficult to maintain a benevolent attitude of love toward others. Further, due to the vulnerability of these essential rational attitudes toward ourselves and others, Kant argues that the full perfection of our rational capacities is likely to be achieved only through the formation of, and our membership in, voluntary ethical communities. If we are not members of such ethical communities then others will, by expressing their corrupted attitudes, tend to corrupt our disposition and attitudes (Kant 1996d, pp. 6:93–95).

¹⁴ A claim that is not, however, usually associated with Kant. See, for example, Anderson and Honneth (2005) and Mackenzie (2008).

¹⁵ Kant (1996a, p. 5:73) thinks that an *excess* of self-love is the more common problem.

The imperfect duty to promote the happiness of others is a duty to beneficently make it our end that others achieve their self-given ends. We have this duty because we are not completely self-sufficient and independent. We all begin (and often end) life completely dependent on others, and throughout our life we are often dependent upon the assistance and attitudes of others to develop our rational capacities, achieve our ends, and meet our true needs. This makes us vulnerable to the absence of aid from others. This leads Herman (1993, p. 61) to argue that we cannot “escape our shared condition of dependency.” This shared condition makes us members of a “community of mutual aid for dependent beings. Membership in the community is established as much by vulnerability (and the possibility of being helped) as by rationality (and the capacity to help)” (p. 60). This explains why a species of rational beings who are “not vulnerable and dependent (call them angels)” (p. 59) do not belong to our community of mutual aid. Angels do not belong, not because they are not *rational* beings, but because they are not also *vulnerable* beings. As such, we have a duty to be beneficent to other human beings in part because human beings are both rational and vulnerable.

4.3. INDIRECT DUTIES

To see how Kant’s derivation of indirect duties also significantly rests on facts about human vulnerabilities, we shall consider two prominent indirect duties: the indirect imperfect duty to promote one’s own happiness and the indirect perfect duty not to wantonly destroy what is beautiful in nature or treat animals cruelly. The first is an indirect duty because “want of satisfaction with one’s condition.... could easily become a great *temptation to transgression of duty*” (Kant 1996b, p. 4:399). The second is an indirect duty to ourselves, *in regard* to animals and the environment,¹⁶ because by wantonly destroying nature we weaken or uproot the “disposition” to “love something (e.g. beautiful crystal formations...) even apart from any intention to use it” and by treating animals cruelly we dull our “shared feeling of their suffering” (Kant 1996c, p. 6:443). But both of these dispositions are “very serviceable to morality in one’s relations with other people” (Kant 1996c, p. 6:443). This is why to weaken or uproot these dispositions makes it harder to fulfil our duties to, and have proper attitudes toward, other people. As such, these indirect duties rest on the vulnerability of human agents to the destruction of their moral integrity when they are dissatisfied with their condition or when they treat nature and animals improperly. Other species of rational beings who do not have these vulnerabilities would not be subject to these particular indirect duties.

¹⁶ But many think that we *also* have duties to animals, not just duties *in regard* to them; see, for example, Korsgaard (2005).

5. The Role of Vulnerability in the Narrow Sense in Kantian Ethics

While we are all vulnerable in the broad sense to being used as a mere means by others, those who are vulnerable in the narrow sense are *much more* vulnerable to being misused by others. Their vulnerability in the narrow sense can create not *new* perfect duties to others, since we owe it to everyone not to use them as a mere means, but *more onerous* duties. The perfect duties that we owe the vulnerable can be more onerous both because we may have to undertake *extra measures* to fulfil them and because it may be *motivationally harder* to fulfil them. A duty to a vulnerable person requires extra measures to fulfil it if fulfilling that same duty to a non-vulnerable person would typically require less measures. A duty is motivationally harder to fulfil than another if it requires a greater strength of will to carry it out because you must overcome a greater temptation to act wrongly (Kant 1996c, p. 6:394). To see why the vulnerability of others can make fulfilling the duties that we owe them more onerous, we shall briefly examine some examples from research ethics and the ethics of intimacy.¹⁷

In research ethics the core normative focus is on the researcher obtaining the free and informed consent of the research subject to participate in the study (Goodin 2004). FH concurs with this normative focus on actual consent, except when the research subject is unable to give authorising consent (O'Neill 2002, pp. 40–42). Kenneth Kipnis (2001) identifies six vulnerabilities, three of which are examined here, that researchers should take into account when assessing whether a subject's consent is free and informed. We shall examine three of these here: cognitive, deferential, and allocational vulnerabilities. Cognitive vulnerabilities arise because some subjects lack the capacity to deliberate about their participation in the study. This incapacity could be due to "some degree of immaturity, dementia, certain types of mental illness, and mental retardation, . . . educational defects and unfamiliarity with the language," insufficient information, or a lack of time to deliberate properly (p. 5). Even if subjects who are cognitively vulnerable consent, their consent may not, because of their cognitive vulnerability, carry authorisation to use them in the study. As such, one way to avoid misusing the cognitively vulnerable is to never use them in studies. But this approach excludes the cognitively vulnerable from participating even in studies that may be highly beneficial to them (Goodin 2004).

¹⁷ We shall focus here only on *perfect* duties to others. This is because vulnerability in the narrow sense plays a different role in regard to our *imperfect* duties, where its role is *prioritising* how we should fulfil those duties. But any requirement to prioritise helping those whose rational capacities are most vulnerable is an imperfect one since Kant (1996c, p. 6:390) thinks that we only act wrongly in regard to this duty if we do not make it our end to help others.

Rather than exclude the cognitively vulnerable from participating in all studies, a better approach is to ensure that researchers undertake extra measures when dealing with the cognitively vulnerable. These extra measures standardly include the use of “plain-language consent forms, advance directives (where incapacity is anticipated), supplementary educational measures, and the proper use of surrogates and advocates” (Kipnis 2001, p. 5). The use of plain-language consent forms, supplementary educational measures, and the provision of extra time and space for deliberation can help to ensure that proper authorising consent is obtained from cognitively vulnerable subjects who are able to give it. However, depending on the nature and severity of the subject’s cognitive impairment, some subjects may still not be able, even with these extra measures, to give authorising consent; this is one of the conditions under which *possible* consent does not require *actual* consent. In that case we may justifiably employ some form of surrogate decision-making. But while FH *allows* for surrogate decision-making in such cases, no single principle for making and assessing all surrogate decisions (e.g., a best-interests or reasonable-persons test) obviously follows directly from FH.¹⁸ But what is clear in this case is that the surrogate decision-maker should not be someone, such as the researcher, who stands to directly benefit from the decision. As such, we should seek (where possible) to employ advance directives, which state what a person would consent to under various circumstances, and use independent surrogates and advocates who do not benefit from the study when making such surrogate decisions.

Deferential vulnerabilities arise because powerful social and cultural pressures can lead subjects to deferentially consent even when they do not want to consent. In that case it is not the researcher herself, but the social and cultural pressures that the subject is under, which applies coercive force. Kipnis’s (2001, p. 6) examples of the deferentially vulnerable include: enlistees in regard to military officers, children in regard to adults, and “third-world women” who may “find it hard to turn down requests from men, especially if they are respected doctors in white coats.” When dealing with the deferentially vulnerable, researchers must undertake extra measures to ensure that they minimise the social and cultural pressures that cause subjects to be deferential. For example, if enlistees are deferential to military officers, then researchers should ensure that they do not use officers to gain the consent of enlistees or have officers present when the consent of enlistees is sought.

Allocational vulnerabilities arise when a subject’s only ready access to important goods or services is through her participation in the study. When dealing with a subject with an allocational vulnerability the subject’s consent may be both free and informed and yet it might still be wrong to use her in the

¹⁸ But for relevant discussions see, for example, Børøe (2010), Koppelman (2002), and Rhodes and Holzman (2004).

study. This is because her use could amount to exploitation. When a subject cannot, for example, access life-saving or life-improving medical treatment except through her participation in a study, then she is highly vulnerable to exploitation. This is because an offer to participate in the study is not one that she can reasonably refuse, since she cannot reasonably choose to go without the medical treatment that she requires and she cannot access that treatment in any other way. As such she must consent to almost *any* offer, and this allows researchers to exploit her vulnerability through extracting excessive benefits by, for example, offering her unjust compensation for her participation in the study. While it is unclear how to determine exactly what counts as “just and unjust compensation packages,” in dealing with those with allocational vulnerabilities researchers should, at a minimum, undertake extra measures to guarantee that the compensation is similar to “comparable remunerative activities” and that subjects receive medical treatment for any injuries that they suffer as a result of their participation (Kipnis 2001, pp. 8–9).

The perfect duty of gaining the possible consent of others is a more onerous duty to fulfil when dealing with those who have cognitive, deferential, and allocational vulnerabilities. This is because, as we have seen, we must undertake extra measures to ensure that we do not intentionally or inadvertently play on the vulnerabilities of others in order to benefit ourselves. Of course, we need to get the possible consent of others whenever we interact with them, so there is no extra *duty* here. Rather, the difference is that, in the case of the vulnerable, getting that consent can require more work, as the examples from research ethics show. And because it is often so easy to benefit ourselves by wrongly playing on the vulnerabilities of others and not undertaking those extra measures, there may be a strong temptation to wrongly take advantage of the vulnerable who are not in a good position to protect themselves or demand respectful treatment from us. And when there exists a strong temptation to act wrongly, fulfilling that duty is also motivationally onerous.

The same vulnerabilities that make fulfilling perfect duties to others more onerous in the context of research ethics, also makes fulfilling those duties more onerous *whenever* we interact with the vulnerable. This is especially important whenever one party has significant and asymmetrical power over another party. To illustrate this point we shall briefly consider some of the ethical issues that arise out of intimate relationships,¹⁹ although we shall have time to focus only on intimate relationships between competent adults. O’Neill (1989, p. 120) argues that it is in “intimate relationships that we are most able to treat others as persons—and most able to fail to do so.” We shall focus here only on the failures. This is an important example because being in intimate relationships can make us very vulnerable to being misused. This vulnerability

¹⁹ Intimate relationships are understood here to cover all close personal relationships, including sexual relationships, friendships, and some family relationships.

arises out of the fact that in intimate relationships we usually “acquire deep and detailed (but incomplete) knowledge of one another’s lives, characters and desires” and we develop “desires that incorporate or refer to the other’s desires” (pp. 119–120). These features of intimate relationships can give intimate others great power over us. This power can create deferential vulnerabilities, since we can be under pressure to defer to our intimates’ wishes, and allocational vulnerabilities, since intimates are monopoly providers of something that we need, namely, *their* love, affection, and friendship. Of course, these powers and vulnerabilities can be (more or less) equal and reciprocal in intimate relationships. But the more unequal they are, as for example when one partner is economically dependent on the other, the more vulnerable intimates can become to being misused.²⁰

These two features of intimate relationships make intimates vulnerable to what O’Neill (1989, pp. 118–122) calls failures of respect and failures of love. Failures of respect can arise because intimates know what we want, know our insecurities, fears, and weaknesses, and know that we need their continuing love, affection, and friendship. This gives them the power to manipulate, coerce, exploit, and paternalistically control us, which makes us highly vulnerable to them. Failures of love can arise because our plans, projects, and positive self-attitudes are particularly vulnerable to the failure of intimate others to positively support, assist, and encourage us. As a result of this, intimates often have the power to both cripple and empower our agency, which again makes us very vulnerable to them. Because of the vulnerability of intimates to us, fulfilling our duties to them can be more onerous. We must be careful that we do not misuse our power over intimates by engaging in failures of respect or love. But this can be a difficult and delicate task. For example, while the line between pleading your case and coercing, manipulating, and interfering is often clear enough when dealing with independent and nonintimate others, it can become very unclear when dealing with intimate and dependent others because of their vulnerability to us. This means that we have to employ *extra* diligence, care, and judgment in fulfilling our duties to intimates. Fulfilling our duties to vulnerable intimates can also be motivationally more onerous, not only because we may have to combat temptations to use their vulnerabilities to benefit ourselves, but also because our love for them can come into tension with our respect for them, with love drawing us closer and respect telling us to keep our distance (Formosa 2010, pp. 12–21; Kant 1996c, p. 6:449). This tension can create a strong temptation to paternalistically control intimates to bring about our view of their well-being, even when this conflicts with their actual ends.

²⁰ However, being vulnerable to misuse by intimates does not, of course, mean that intimates will ever actually *use* these vulnerabilities against us.

6. Conclusion

To be vulnerable is to be susceptible to some harm, injury, failure, or misuse. This conception of vulnerability grounds two different senses of the term. The broad sense of vulnerability focuses on whether someone or something is at least *somewhat* vulnerable. The narrow sense focuses on those who have a *high degree* of vulnerability. Human vulnerabilities, including the vulnerability of human bodies, are relevant to Kantian ethics since rational capacities in human agents (and the bodies those rational capacities depend on) are highly vulnerable in all persons and especially vulnerable in some subgroups of persons. Vulnerability in the broad sense plays an important role in the derivation of duties in Kantian ethics. For example, humans are forbidden from consuming excessive alcohol or intentionally depriving themselves of oxygen for the sake of merely desired ends (partly) because human rational capacities are vulnerable to temporary or permanent harm by such acts. Vulnerability in the narrow sense also plays an important role in setting out the requirements for fulfilling duties. It does so since fulfilling the duty we owe to all persons not to use them as mere means can be more onerous when dealing with the highly vulnerable. For example, researchers ought to undertake extra measures when trying to get the free and informed consent of members of highly vulnerable subpopulations compared with the measures required when dealing with the general adult population. Human vulnerabilities in both senses therefore play important roles in Kantian ethics.

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Moral Vulnerability and the Task of Reparations

Margaret Urban Walker

There is little philosophical agreement on the nature and aims of reparative justice. I seek to understand the domain and demands of reparative justice in terms of moral vulnerability. Significant harms raise the question of whether victims stand in truly reciprocal practices of accountability; if they do, they enjoy the power of calling others to account as well as bear the liability of being accountable to others. In the aftermath of harms, victims' moral vulnerability is tested: they are exposed to the insult and injury of discovering that they do not enjoy the moral standing of holding others accountable. While the occasion of reparative justice is significant wrongs and wrongful harms and losses, the aim of reparative practices, I argue, is not only or even primarily to redress those harms and losses but to address the moral vulnerability of victims by affirming their status in accountability relations. I draw some consequences from this view about the obligations of communities and the communicative functions of reparations as understood in recent political practice. This view also begins to explain how varieties of reparative effort reflect variations in kind and degree of moral vulnerability.

The idea of "making good" for a wrongful loss or injury by tendering to the victim something of value, usually in a ritualized manner or in a symbolically scripted context, is ancient and seemingly spans all cultures.¹ There is yet little agreement, however, on the nature and aims of reparative justice.²

¹ See Braithwaite (2002, pp. 3–27) on the widespread use of reparative practices across cultures.

² I will call this kind of justice *reparative justice*, choosing the broadest and most intuitive label although even the terminology remains unsettled. The kind of justice that requires redress of wrongs and wrongful harms and losses is variously called corrective, commutative, compensatory, rectificatory, reparatory, reparative, and now also sometimes restorative justice. These labels have different connections and connotations, however, and there is no universally shared view about whether they refer to the same concept of justice or about what are the paradigmatic cases or defining characteristics of justice of that kind.

There is a strong association, and many consider it central or obvious, between reparative justice and restitution or compensation through transfers of money or other materially valuable goods. One paradigmatic practice is tort law and the central principle is that of compensating persons injured by wrongful conduct to restore the antecedent status of the wronged party or to provide equivalent or replacement value for damage to her interests or well-being.³ The other historical referent attached directly to the term *reparations* is the postwar punitive practice, between nations, of losers being compelled to pay winners for the losses suffered in conflict—as in the familiar case of reparations exacted from Germany by victorious nations after the First World War. In the later twentieth century, however, a new practice of reparations has since been initiated by nations, elaborated in the jurisprudence of international courts and embedded in United Nations guidelines for combating impunity and making remedies and reparations available to victims of grave human rights abuses.⁴ This new practice identifies individuals (and in some instances where individuals are targeted collectively, groups) as the bearers of rights to remedies and reparations from states for grave abuses of their human rights. As a result, the very concept of reparations has shifted rapidly and dramatically from a transaction between states to an obligation of states (and possibly by implication other entities) to redress individuals or in some instances groups by means of diverse forms of reparations that may include restitution or compensation but go beyond them. Complexities of this new practice of reparations call for rethinking some familiar ideas of reparative justice as *restoring the status quo ante* or *compensating in proportion to harm*. I will argue that what is revealed in reparations movements and struggles is a dimension of reparative justice that goes beneath the harms in question to still deeper issues of moral relationship and a distinct kind of vulnerability to indignity that inheres in it.

I claim that what is at stake most fundamentally in circumstances where reparations are at issue—cases of mass violence, systemic abuse, or historical injustice—is whether those wronged possess the standing to *call to account* those who have wronged them or who bear responsibility for the repair of the wrongs they have suffered. To better understand this dimension of reparative

³ Philosophical arguments for one or another principle of individualized and ideally proportionate compensation include Nozick (1974, pp. 57–58), MacCormick (1977), Nickel (1976), Coleman (1994), Wenar (2006), and Winter (2006).

⁴ The point of this shift is widely agreed to be the unprecedented program of massive reparations by the Federal Republic of Germany to individual victims of the Holocaust. On this dramatic historical shift, see Colonosmos and Armstrong (2006, p. 391), who call it a “model of an entirely new kind of reparations.” See also Falk (2000), Teitel (2000, pp. 119–128), Torpey (2003, pp. 4–5), and Barkan (2003, pp. 95–98). On the jurisprudence of the Inter-American Court of Human Rights, see Carrillo (2006). Falk stresses how large and significant a shift in international law is involved in the developing concept of state responsibility. I do not here defend state responsibility for reparations, although I believe it is defensible and is, in any case, the existing standard.

justice, I introduce the concept of *moral vulnerability*. By moral vulnerability, I mean a vulnerability that inheres in our assumption that we possess a certain moral status as full participants in reciprocal accountability relations. All of us who see ourselves as possessing this status anticipate that we are rightly able to call others to account even as we ourselves are rightly liable to be called to account by others. The vulnerability in question is the potential for being exposed to the insult and additional injury, when we perceive ourselves wronged, of having our standing to call others to account denied, dismissed, or ignored in ways that call our very status as full participants into question. Practices of accountability that position individuals—and in social and political life, groups—in presumed reciprocal relations of accountability are the scene of our moral vulnerability. To be vulnerable, in its primary (and root) meaning, is to be “capable of being wounded.” In cases of moral vulnerability, the wound to which we are vulnerable is dismissal or degradation of our status as full participants in reciprocal accountability. Significant wrongs and wrongful harms and losses test our vulnerability to being wounded in that way by supplying the occasion for our attempts to hold others accountable.

All of us are vulnerable to this form of disregard—not only to being wronged but also to finding our demands for morally appropriate responses by others to be without effect. On my view, the concern and aim of reparative practices is not only to supply measures to assuage or compensate for wrongful harm and loss but also, and in some cases primarily, to address the moral vulnerabilities of victims by ensuring that they do not suffer the indignity of dismissal. In cases in which reparations are at issue, victims of grave and usually massive wrongs have typically suffered persistent denial and exclusion from relations of reciprocal accountability, both in the event of wrongdoing and often in its genesis and aftermath. In these cases, grave wrongs supply the occasion of reparative justice and restitution or material compensation on some such occasions may be necessary or uniquely effective as one part of reparations. I argue, however, that the concern and aim of reparative practices is always also to recognize and address the past and continuing moral vulnerabilities of victims of serious wrongs. It is only by addressing the dignitary wounds and future threats of failures of reciprocal accountability that such wrongs are truly redressed. It is only by understanding this dimension of reparative justice that the different demands of different contexts of reparation are explained.

In section 1, I give varied examples of the new practice of reparations to bring out the complexity of reparations struggles and demands and to sharpen the question of what this practice reveals about the guiding concern of reparative justice. In section 2, I explain how moral vulnerability inheres in accountability relations both in everyday life and in the kinds of cases at which reparations aim and argue that attention to moral vulnerability exposes a deeper unifying concern of reparative justice. In section 3, I show the role that moral vulnerability plays in shaping reparations demands and attempts, as different kinds

and histories of accountability failures leave different wounds and threats to be reckoned with as a matter of justice. In section 4, I conclude with some observations on the ways that monetary compensation—a measure so associated with reparations that it can eclipse the larger aims and logic of reparative justice—plays its role.

1. A New Practice of Reparations

The basic principle of reparations, affirmed by the UN General Assembly in 2006 after a decade of study, is that victims of gross violations of international human rights law or serious violations of international humanitarian law should be provided with “full and effective reparation.” Recognized modes of reparations include the following: restitution; material compensation; rehabilitation through legal, medical, and social services; guarantees of nonrepetition through institutional reform; and “satisfaction” (a category of diverse measures that include truth-telling, exhuming human remains from atrocities, public apology, commemoration, and educational activities) (United Nations, 2006).⁵ This emergent political practice of reparations has been driven sometimes by legal actions and decisions, sometimes by political movements, and sometimes by the interaction of both as well as by contemporary movements for the recognition of historical injustices to groups.⁶ In cases of systemic or mass violence and historical injustice, the legal model of proportionate compensation for individual injury can seem inapt or inadequate on both theoretical and practical grounds.⁷ In response, a recent generation of theoretical work on reparations and reparative justice includes expressly moral and political conceptions in which compensation is an instrument or part, never in itself sufficient and not always necessary, of a larger set of measures meant to recognize victims of violence and injustice, reaffirm their moral dignity, and create or reinstate their status as citizens equal to others or recognition of their status as a people or nation (see de Greiff 2006; Thompson 2002; Verdeja 2007; von Platz & Reidy 2006).

⁵ The conditions and nature of group claims are an area in need of much more examination. The Basic Principles in its preamble notes that victimization may “also be directed against groups of persons who are targeted collectively” and, in Article V, that “victims are persons who individually or collectively suffered harm.” On some ambiguity in the idea of collective reparations, see Rubio-Marín (2009, especially pp. 385–387).

⁶ On the interaction of legal claims and settlements and legislative actions in some reparations contexts, see Guembe (2006) and Lira (2006).

⁷ See de Greiff (2006) on the need for a political, rather than legal/juridical, conception of reparations. See also Brooks (2004), rejecting a tort model of reparations to African Americans; see Roht-Arriaza (2004) on the relevance of collective and symbolic reparations for communities. I contrast a juridical with a restorative justice framework in Walker (2006b).

Examples of the contemporary practice of reparations demands and reparations programs are diverse. For many, the case of unjustly interned Japanese-American citizens during World War II is illustrative of a meaningful and effective reparations effort. During the war, Japanese-American citizens had been indiscriminately and forcibly removed from their homes as a security risk and interned at bleak and distant camps, suffering captivity, humiliation, and loss of property. They eventually achieved recognition and reparation on behalf of the nation when the United States Congress conducted extensive hearings with hundreds of witnesses to produce its official report, *Personal Justice Denied*, finding that violation of Japanese-American citizens' rights occurred due to racism, war hysteria, and failed leadership. With the Civil Liberties Act of 1988, individual survivors received not only acknowledgment through the report but also a symbolic monetary payment of \$20,000 (close to the amount suggested by advocacy organizations), an individual letter of official apology from the president of the United States, and pardon for convictions related to violating the internment and restoration of status and entitlements. Funds were also appropriated for research and public educational activities related to the internment. Interned Japanese-American citizens saw their internment publicly examined and repudiated, their rights as citizens and subjects of justice reaffirmed, and their humiliation and suffering acknowledged through a variety of symbolic measures.⁸

In another and very different kind of case, the long-running pursuit by the Lakota Sioux people of return of the Black Hills by the United States has not been settled or repaired, despite a 1980 United States Supreme Court ruling in *United States v. Sioux Nation* that the 1877 statute that appropriated the Black Hills from the Lakota was an unconstitutional taking of treaty-guaranteed lands, legally obligating the United States to pay just compensation to contemporary Lakota people. The Sioux, however, refuse to this day to accept the monetary award that was placed in trust, today standing at over USD\$500 million, despite crushing rates of poverty, unemployment, incarceration, and ill health among the Lakota and periodic efforts to effect a monetary settlement. The Lakota Sioux insist on return of the Black Hills, which are central to their political and cultural identity. Indian legal theorist Rebecca Tsosie explains that the tort model of compensating citizens for past wrongs does not meet the claims of Indian people to cultural and political rights as separate governments, including rights to protect their lands. Further, the settlement of a property claim fails to touch "the moral and dignitary harms" suffered by the Sioux as a people, such as the genocidal military campaign against them and purposeful attempts to destroy their culture, of which the taking of their lands is one part (Tsosie 2007, p. 54; see also Barkan 2003). Attempt to redress the Lakota

⁸ Brooks (1999) contains source materials on Japanese-American internment and redress. The case is discussed by Minow (1998) and Yamamoto and Ebesugawa (2006).

Sioux dispossession by means of a monetary payment within the framework of property rights remains inscribed within and reiterates the legal and cultural framework that not only displaced those of Native nations through conquest but also devalued them and legitimated the destruction of American Indian cultures with their own understandings of justice and of their status as nations.

While the turn toward a new practice of reparations is commonly dated to West Germany's program of reparations to Jewish survivors of the Holocaust, other well-known cases of extreme rights violations from the same era remain unresolved. The long and tangled history of silence, denial, evasion, and compromised reparations attempts in the case of women sexually enslaved in military brothels run by the Japanese Army in World War II defies brief description. Although the enslavement, daily multiple rapes, forced abortions, and other gross abuses of the women (unfortunately labeled *comfort women*) was known at the conclusion of the war, the government of Japan did not make a clear admission of its role until the Kono statement of 1993. Its reparative attempts consisted of a trail of apologies from successive prime ministers of Japan and the creation of the evasively named Asian Women's Fund in 1995 to disburse monies to elderly survivors. The fund, which terminated its operations in 2007, paid compensation (called *sympathy money*) to 285 women, a fraction of existing survivors. Many survivors have refused the offer because much of the money in the Asian Women's Fund was raised by private sources and none of the Japanese attempts at official apology have been judged by the women to accept blame categorically on the part of the Japanese government. The situation has been worsened by continuing resistance or oscillation in statements by the Japanese government regarding admission of wartime atrocities, including the enslavement of the women, and by revisionist tendencies in Japanese textbooks concerning sexual enslavement (and other slave labor).⁹

Many other cases might be discussed: precedent-setting German post-war reparations to Jewish survivors of the Holocaust and to the new State of Israel; extensive reparations programs to individual victims in several Latin American countries—Argentina, Chile, Brazil—in the aftermath of repressive governments that practiced torture, disappearance, and illegal detention against their own citizens; the continuing pursuit by African Americans of redress for slavery or for Jim Crow legal discrimination and segregation; monetary reparations to victims who testified before South Africa's Truth and Reconciliation Commission; demands of African countries for reparations from Europe for colonialism; direct reparations from individual

⁹ Much of the tangled history is summarized in Iida (2004). Some recent developments are reported in Onishi (2007a, 2007b) and Fackler and Sang-Hun (2007). Lind (2008) closely studies the backdrop of struggles with and within Japan over responsibility for wartime atrocities, including the enslavement of women in brothels. Hamber and Palmary (2009) offer a detailed consideration of the apologies. A Congressional Research Service Memorandum by Niksch (n.d.), an Asian specialist, is a useful compendium of information up to 2007.

perpetrators to victims of lesser crimes or property offenses through the innovative Community Reconciliation Procedures implemented by Timor-Leste's Commission for Reception, Truth and Reconciliation. While I cannot in this paper do justice to individual cases or elaborate fully on differences among types of conflicts, between episodes of repression and intergenerational histories of injustice, and between the reparations aimed at individuals (even if targeted as members of groups) and reparations aimed at groups, I offer these cases as a point of reference for my question concerning the fundamental issue at stake in reparative justice. Can any significant unity be found in the guiding concern of reparative justice that also helps to explain the different demands reparative justice makes in different situations and the reasons victims have to entertain or to reasonably reject reparative offers that involve both the transfer of money or goods and other gestures of reparation?

2. Accountability Relations and Threats to Moral Standing

It is widely acknowledged that reparations cannot *just* consist in the tendering of goods or money to those who have suffered grave wrongs and wrongful harms. Compensation can be purely remedial and forward-looking, seeking to create fair distributions or equality of opportunity without addressing effects of wrongful treatment or injustice. Compensation can also be a charitable act impelled by compassion for loss and unjust suffering that comes from those who accept no responsibility or bear no relationship to a wrong. The very concept of reparations, however, seems deeply connected with issues of wrongfulness and responsibility. Decades ago, Bernard Boxill (1972) made this point: "Part of what is involved in rectifying an injustice is an acknowledgment on the part of the transgressor that what he is doing is required of him because of his prior error Without the acknowledgment of error, the injurer implies that the injured has been treated in a manner that befits him; he cannot feel that the injured party is his equal" (p. 118).¹⁰ Boxill's insight draws attention to the importance of what the reparative interaction reveals about the wrongdoer's appreciation of the standing of the injured party. As I will argue shortly, the original wrong is the occasion for an act of reparations, but what is at stake in whether (adequate) reparations are offered is the recognition of a certain kind of relationship and its implications. Nor does this recognition have to do only with the wronged party and the wrongdoer.

¹⁰ For parallel distinctions emphasizing this specifically reparative dimension that transcends compensation, see Roberts (2002), Satz (2007), Thompson (2002), and von Platz and Reidy (2006). Gaus (2002) argues that compensation cannot restore moral equality. Bernstein (2009) stresses that the award of damages not only serves to indemnify the victim for losses but also allows the victim to pursue security and freedom through recognition of the victim's rights; compensation is necessary but not sufficient for reparations.

To capture the widely shared sense that reparative justice and reparations involve issues of wrong, responsibility, and just redress, I characterize clear cases of reparations in this way: reparations consist in responsible parties' intentionally giving appropriate goods to victims of wrong as a specific act (or process) that expresses acknowledgment of that wrong, responsibility for that wrong or its repair, and intent of rendering just treatment deserved by a victim in virtue of that wrongful treatment. This characterization tells only what kinds of acts or programs count indisputably as reparations: they must directly communicate recognition of the reality and the nature of wrongs, the insult and harm suffered by the victim in wrongful treatment, the victim's deservingness of repair as a matter of justice, and the responsibility of those offering reparations to take up the demand of reparative justice.¹¹ It is true that common usage is more elastic than this definition allows. Sometimes the achievement of a legal judgment or settlement is taken by victims, or is claimed by responsible parties, or is reported in news media as "reparations" when responsibility is not clearly or expressly communicated or even when it is formally denied. I do not seek to reform common usage, but I believe that my explanation of reparations in terms of moral vulnerability helps to illuminate why these extended uses can make sense in context or may be strategically useful or symbolically hopeful, a point I return to briefly in conclusion.

If paradigmatic acts of reparations embody acknowledgment, responsibility, and an intent to do justice, why are these aspects of central importance? What most fundamentally does reparative justice concern, and to what must it respond? I suggest the key lies in that form of relationship that is constitutive of any moral structure in actual life: relations of accountability that connect individuals to others through recognition of responsibilities under certain shared norms. The norms that structure accountability relations are norms for acceptable conduct. Among these are norms for acceptable responses to unacceptable conduct—conduct that has failed to observe mutually recognized norms. Wrongs always in principle pose a set of questions and a set of potential threats to the structure of accountability and to those who see themselves as parties to it. I call the threat that serious wrongs pose *moral vulnerability*, that is, a particular kind of vulnerability that arises from our participation in the practices of accountability. Moral vulnerability involves exposure to a particular kind of wound that can be inflicted on any of us who stands in, or aspires to stand in, reciprocal relations of accountability based in mutually recognized standards.

To be a participant in practices of accountability, to borrow some language from P. F. Strawson's (1968) classic essay, is to be viewed as an apt target (pending excuse or exemption) for demands for accountability by others in virtue of how we behave. But Strawson reminded us that not all individuals are seen all

¹¹ I study in detail the communicative structure and what I call the *expressive burden* of reparations in Walker (2013).

of the time as eligible and competent participants and that to be a human actor who is not so seen is to be viewed with an “objective attitude” by others who do so see themselves as full participants. Strawson did not mean that within the objective attitude people are seen as objects rather than human beings. He meant that human beings seen in that way fall outside (wholly or in part) the form of relationship experienced by those who see themselves and each other as eligible and competent. This relationship is one of accountability: it consists in suffering the demands of others on us to render accounts of our conduct and, where our conduct is unexcused, accepting responsibility and in turn enjoying the standing to make similar claims upon others. When seen from the objective attitude, one is an object to be controlled or managed, not a participant in reciprocal accounting. The standing to hold and to be held to account is what makes one a participant, and being able to hold others and being oneself held to account in particular ways characterizes one’s relative position as a participant. To possess this standing is a kind of recognition and empowerment, even if its consequences can be onerous.

The situation I call moral vulnerability is the possibility that one may fail to be recognized as a participant, or as the kind of participant one believes one is entitled to be, in a particularly direct way, by the refusal of one’s demands for accountability. One may also find that the norms governing and constituting relations of accountability are in some crucial respects not as one believes that they are or should be.¹² Subordinates in a workplace can discover that their objections to being treated thoughtlessly or rudely by superiors receive no apology or even no reply. A sex worker can be met with skepticism or ridicule in trying to press a complaint of assault or theft by a customer to authorities. Victims of political violence may discover that their fellow citizens, even their neighbors, find security in assuming that they must have done something that earned their mistreatment. Not infrequently, others would rather not know. Ksenija Bilbija (2005) quotes a high school student who disappeared for nine months during the military dictatorship in Argentina: “‘Don’t tell us anything,’ her parents warned her when they were all alone in the house” (p. 115). Not only wrongdoers but also communities can fail to demand accountability or to stand with a victim of wrongdoing who demands it.

Reparative justice, I suggest, aims to maintain accountability relations by tending to our moral vulnerability. It “does justice” by remediating wrongful loss and suffering that should not have to be borne or absorbed by the victim, but even more fundamentally it responds to our right and need to have

¹² I introduce here the barest bones of the practice of accountability. Some discussions of accountability relations and the effects of context and power differences on the ground are Harvey (1999) and Walker (2007). Smiley (1992) offers a pragmatic theory of responsibility that exposes the evaluative judgments involved in all responsibility assessments, affecting for what and to whom one is accountable. On a positional and relational view of accountability, see Kutz (2000).

purchase on others' due attention when we suffer unacceptable treatment. Because wrongful harm and loss of material, physical, psychological, and social sorts is so obviously the occasion of reparations, it can obscure the presence and import of specifically moral vulnerability as the issue at its core. Moral vulnerability is the potential for harm that inheres in the situation of one who has suffered serious wrong in the context of those practices of accountability to which one considers himself or herself a party. If the whole concern of reparations were indemnification or making good for loss, it is unclear why reparations demand the acknowledgment of wrong and responsibility to repair it as a matter of justice. Acknowledgment and acceptance of responsibility confirm that the one wronged is entitled to an accounting, and this may be of special importance for those who have suffered persistent unacknowledged or unredressed wrongs.

Accountability is a relation: to be accountable is to be accountable to someone in the matter of one's conduct. The most minimal sense of accountability is *answerability*, to be in circumstances where one is obliged to inform others concerning one's conduct and activity. More specifically, one must answer with explanations or justifications that are responsive to others' legitimate interests and expectations in regard to that behavior. To be answerable submits one at the least to judgments of the acceptability or unacceptability of one's conduct. Another meaning of accountability is *liability to sanction*, that is, exposure to penalty or punishment for behavior that fails, without excuse or justification, to satisfy a requirement or normative expectation, an expectation about how others should or must behave, based on law, morality, agreement, or common understandings. Behavior that violates standards or norms creates a warrant for inflicting disapproval or reproof and enforcing some demand on the violator in the forms of punishment, penalty, or amends.

Both forms of accountability—answerability and liability to sanction—adhere to authority relations, usually asymmetrically: employees are accountable to bosses, subordinates to superiors, children to supervising adults, where the authority has standing both to demand accounts and to take remedial or punitive action. Common morality, however, supposes that competent agents are answerable to and may in turn demand accountings from at least some (if not all) others with respect to some matters. The accountability constitutive of common morality reveals itself especially in the case of behavior that appears to violate widely recognized moral norms, where people are likely to be pressed to explain themselves or admit fault, whether or not any sanction beyond disapproval or reproach can be applied. In the optimal case, the offending party is called to answer (whether voluntarily or under some compulsion) and, lacking excuse or justification, to accept liability at least to negative judgment and potentially to demands for remedial action (at a minimum, an apology), even if the required response cannot be commanded or compelled. Offended parties and others who share in commonly accepted standards, then, are in a

position to demand accounts for apparently unacceptable or faulty behavior, and offending parties are required to give accounts and to recognize the legitimacy of negative judgments and to respond to their consequences.

If this is what accountability means in its most elementary form—answerability that opens at least the possibility of negative assessment and its potentially demanding consequences—there are vulnerabilities on both (or all) sides when wrong has been done. The apparent wrongdoer is vulnerable to misplaced demands for accounting or to attributions of fault or responsibility that might be unreasonable or unfair. In discussions of reparations for historical injustices, atrocities, or systemic violence, the cogency or fairness of placing responsibility on particular parties is often discussed: whether currently living people can bear responsibilities of reparation for injustices committed long before they existed or for their eventual effects; whether being under others' authority or being influenced by intense situational pressures constitute excusing circumstances; or whether some are unfairly scapegoated if they are held responsible when some others who behaved similarly are not.

I intend here, however, to examine the moral vulnerability, the exposure to a *moral wound*, of the seriously wronged individual. The potential wound of one wronged is to be ignored or repudiated in, or erased or excluded from, one's standing to demand an account from another for conduct one believes is a serious wrong or the source of wrongful harm to oneself. For the apparent wrongdoer, freedom from accounting to the wronged party or to others is moral *invulnerability*, the most profound form of impunity—not merely freedom from punishment or other sanction but also exemption from the most basic kind of accountability, the obligation to answer for one's conduct to some (or all) others. For the victim, the inability effectively to command accounts from others for apparent wrongdoing raises a question—and sometimes an alarm—concerning the victim's participant status in relations of accountability. In both terms of the accountability relation in any context, there are possibilities of dignity and degradation for those who call for an accounting and those who are called to it. Since my concern here is with the moral vulnerability of the victim of serious wrong, I examine the structure of the victim's situation.

Suppose X is the apparent agent of wrongful hurt, harm, or loss. Then X stands liable to accounting, assessment, and pressures for sanction or reparation. The apparent victim should be able to demand an account of X, to confront X with a negative assessment, and possibly to demand satisfaction from X and the support of others in seeking satisfaction (through informal or formal reproach, punishment, or amends) from X. The "ability" to do these things refers to a standing within relations of accountability that must be recognized by others, not to a physical or psychological capability. So the victim's specifically moral vulnerability concerns whether the victim does enjoy that standing. The victim is morally vulnerable to finding that others, including

but not only the perpetrator of wrongful harm, in some way fail to respond in ways that affirm that standing. Others might not see what the victim has suffered as wrong because they blame the victim or do not believe him. They might not recognize that the victim is entitled to call the offender to account, perhaps because the victim is negligible or despised or the offender is powerful or esteemed. Others might not recognize the victim as protected by the norms that support the victim's negative assessment of the offender, as if standards of common courtesy, decency, or justice apply only among people in some social places and the victim is not among them. They might not recognize or support the victim's demands on the offender or others for satisfaction or redress as legitimate or compelling; they might think that this is, after all, the lot of a woman, a servant, or a person of lower caste. The wronged party who believes that he or she enjoys reciprocal accountability relations with the presumed wrongdoer, or at least enjoys this standing in the domain of interactions at issue, is exposed to the moral wound of being disqualified, degraded, or excluded from fully reciprocal accountability relations, at least in the instance at issue. A statement rejecting "overly critical" history textbooks, attributed to the Japanese Ministry of Education in the 1950s, for example, reveals an entirely common attitude by no means specific to Japan: "The violation of women is something that has happened on every battlefield in every era of human history. This is not an issue that needs to be taken up with respect to the Japanese Army in particular" (Lind 2008, pp. 35–36).¹³ Indeed, accountability for sexual violations of women in conflict was not firmly established in international law until the past two decades; the disputed reparation for comfort women described earlier emerged in this recent climate.

Of course, a self-described victim may be simply mistaken or out of bounds in claiming wrongs, assigning responsibility, or putting demands. Yet accountability practices are dynamic; they are a medium in which obligations, values, and accountability relations are affirmed or denied, contested or negotiated. For this reason the patterns embodied in practices of accountability are important for asserting or testing one's participant status. One way to assert an existing or proposed boundary within relations of accountability is to refuse to account for behavior to persons who are not, in one's view or by the standards one believes prevail, entitled to demand accounts. You may not have any standing to monitor my financial or familial or sexual affairs, and if you presume upon me for accounts I will justifiably refuse to give them. It is also true that our social and moral worlds are segmented by specialized accountability relations: the truth owed a friend is not necessarily owed a stranger, and my employer may impose a pay reduction in penalty for my unauthorized early departures when my irritated coworkers may not.

¹³ On recent recognition of sexual violence in international law, see Askin (2003), Duggan and Jacobson (2009), and United Nations General Assembly (1998, articles 7 and 8).

In speaking of reparations, however, we are typically speaking of very grave wrongs and harms to human beings. We are speaking of wrongs such as assaults to physical, psychological, and social well-being; denial of rights; subjection to inhumane or humiliating treatment or deprivation; or significant destruction or alienation of property, livelihood, or heritage. With respect to these profound insults to well-being and dignity, human beings will usually feel themselves grossly ill-treated, even if their social or legal positions institutionalize their diminishment in, or exclusion from, fully reciprocal accountability. If they cry out against injustice anyway, and in the case of oppressed groups some invariably do, they bid for some or for greater recognition that something is owed to them for a real wrong and the harms it inflicts. In doing so, they assert a participant role in accountability relations that is uncertain or that has been denied to them.

Those who experience what they take to be gross injustice yearn for, and where possible seek, some validation from others that their sense of their experience is true. Most simply, moral validation, from the perpetrator of a wrong or from others, consists in those others' affirmation with the victim that the wrong is real and its wrongfulness is clear, that someone else bears responsibility, and that others owe an accounting and may be liable to sanction or for redress. At its most effective, moral validation is a social process in which convergent judgments about grave wrongs within a community or society assure the victims of wrong (and anyone else who may be uncertain or resistant) that norms are shared and that the victims are recognized and valued members of a community prepared to respond to the mistreatment the victim has suffered with appropriate and justified demands for accountability on those who have done wrong.¹⁴

This is why it is always a standing obligation of communities to respond to claims of serious wrongdoing with respectful attention and to respond to evidence of serious wrongdoing with an affirmation of the standards violated and a confirmation that the injury of the victim is real and is a matter for redress. Moral validation might not be forthcoming from wrongdoers themselves; indeed, in large-scale violence offenses are typically minimized, justified, and simply denied by those with responsibility. Nor do victims always value or respect an affirmation of standards from individual wrongdoers; victims might find the affirmation of wrongdoers incredible or irrelevant. In any case wrongdoers are in a position to affirm (belatedly) only their own recognition of the authority of violated moral standards. Wrongdoers are not necessarily in a position to affirm either that standards are authoritative for a community or that the victim is within the community's protective concern. There is always a communal responsibility in moral validation that alone can fully meet the

¹⁴ My broader account of victims' needs for voice, validation, and vindication is found in Walker (2006a).

threat of moral vulnerability. The commission charged to study the Tulsa Race Riot of 1921 affirmed the necessity of official governmental validation in some cases: "There is no way but by government to represent the collective, and there is no way but by reparations to make real the responsibility" (Cose 2004, p. 151).¹⁵ The government of Oklahoma, however, declined that responsibility on behalf of its community.

Where moral validation desired or sought by victims of apparently serious wrongs is not forthcoming from wrongdoers or the relevant community, what does it mean? It might mean that the facts or seriousness of the violation are in doubt or uncertain in the eyes of others. It might mean that the moral standards that define wrongs in the victim's eyes are questioned or rejected by others. It might mean that the facts concerning responsibility are uncertain (e.g., that the victim is, in whole or in part, to blame) or that standards of responsibility are unclear or contested in the kind of case at issue. If moral validation is not forthcoming, at least the judgment of the victim concerning wrong and responsibility is in question; the victim's standing to enter claims to accountability may or may not be directly impugned.

Challenges to the victim's perception of wrong and responsibility in some cases, however, indicate a kind of discrediting or disqualification of the victim's standing to make a judgment that embodies the authority of group norms, and this in turn can mean that the victim is perceived as somehow not a "normal" or "representative" or "authoritative" judge who embodies the community's point of view. A victim's attempt to enter accountability claims may also be blocked if the victim is not seen as protected by standards that protect others, or at least not at the hands of the perpetrator in question. It may also be that the alleged wrongdoer is not viewed as subject to the standards invoked, or at least not in the case of the victim in question. In such cases, the victim does not possess socially recognized authority to press accountability upon the supposed wrongdoer. When those who see themselves as seriously or grossly wronged fail to receive validation, it may not be clear which of these situations obtains, but social hierarchies and de facto relations of very unequal power or social authority often result in systematic accountability differentials or asymmetries.

It is because the victim's standing to require accountability can be in question that acknowledgment of wrong and responsibility is crucial in constituting reparations. It is the clarity and adequacy of that acknowledgment that resolves the question in favor of the victim's standing as a full participant with others under shared moral standards and one whose sound claims concerning

¹⁵ The community that is relevant in affirming standards is context dependent. For human rights violations, the *international community* may be the relevant authority. See Addis (2003) on how the international community is constituted in the process of invoking international norms and applying sanctions.

wrong and redress require respectful attention. When this acknowledgment and responsiveness is refused (or confused), the potential for moral diminishment, erasure, exclusion, or abandonment by whatever community the victim appeals to for validation is realized. The victim is morally vulnerable to the response: "You are in no position to make demands on us." That is to say, the victim's standing as a participant in reciprocal practices of accountability is either unrecognized or denied, at least with respect to some wrongs the victim experiences as urgent and damaging. This refusal of accountability is common enough when wrongdoers continue to enjoy social power and prestige. While this might enrage victims, it is not as consequential as a community's failure or refusal to lend its authority to victims seeking recognition of wrongs.

3. Moral Vulnerability and the Task of Reparations

Once moral vulnerability is recognized as the underlying issue in redressing wrongs, and once the multiple facets of the standing to demand accountability are exposed more precise sense can be made of what is at stake in redress. Differences in what reparations concretely demand will track the contours of the kind and extent of moral vulnerability that is at issue or the nature and depth of the actual wound of moral diminishment, exclusion, erasure, or abandonment that individuals and groups have endured in addition to their wrongful injuries and losses.

Reparation in all cases is in some ways necessarily backward looking: It works on assessing and relieving the threat of moral vulnerability that inheres in the wrong already done and the history of the situation and relationships involved. In cases where the victim's standing has been questioned or denied, reparations work at closing and healing the wound of erasure, exclusion, or abandonment that is opened up by a failure of validating responses to the wrong. Cases that call for reparation, however, vary greatly in the defining dimension of moral vulnerability. If there is no salient or serious threat to the victim's standing in an instance of wrongdoing, a simple apology or a straightforward compensatory transaction can rectify a breach in conduct that does not reveal a gap in accountability and the mutual recognition it signifies. If there is an accountability gap, however, the nature of the gap matters and may itself become the site of other challenges, threats, and fresh wounds. In disputes about fact or history, parties may see each other as merely mistaken, or some parties may arrogate solely to themselves the authority to define the situation. If moral values or standards of responsibility are applied in disparate ways by victims and those they would hold to account, it matters whether this is a disagreement among equals or whether there is evidence that some parties refuse to apply values and principles to certain individuals or groups. In cases of historical injustice, individuals or groups bring forward offenses

and damages previously denied or rationalized with reparative demands that encompass a history of exclusion, subjection, violence, stigma, or exploitation and in some instances previous rebuffs to earlier demands. In every case, reparations will have different hurdles to clear, and different kinds of communicative and reconstructive work will be possible and necessary between the parties.

Reparations also have forward-looking aims. Discussions of reparations that emphasize the element of acknowledgment often speak of the aim of reparations as achieving respectful relations, restoring trust, or establishing the victim's equality. Yet even if these goals—to establish respect, trust, or equality—are the ultimate or regulative ideals of reparative practice, more immediate questions about inclusion and recognition in mutually understood accountability relations are at stake in reparations struggles. For two reasons, it is unwise and implausible to burden reparations efforts with too much responsibility for good future relations. First, to do so diverts attention from what I am arguing is the primary locus of actual reparations attempts or struggles—a negotiation of accountability in and of the present in light of a sorry past. Second, to do so is to conflate reparations efforts and fulfilling demands of reparative justice with the achievement of substantial reconciliation. These two issues are linked.

First, when reparations are made, they call the parties to the reparations process to a shared attempt at convergent judgments of wrong and responsibility and to jointly meaningful action that responds both to the wrongful harms done and to whatever threats of moral vulnerability are revealed. The scene of this attempt at renegotiating accountability relations is the here and now. An interesting fact about actual reparations movements, proposals, and programs is the degree to which the problems and concerns to be faced are often, perhaps typically, only fully revealed in the event of demands, rebuffs, proposals, debates, negotiations, and agreements. I believe this is explained by the fact that moral vulnerabilities are multiple, complicated, and not always clearly visible to the parties. They are likely to express themselves most clearly in the very event in which reparations are offered or sought, as this process exposes disjoint perceptions of wrong, responsibility, and obligation. Even to arrive at a determination of what is wrong about what happened in the past and who is responsible for it or its repair—no small feat in many cases—does not necessarily reveal all aspects of moral vulnerability or the extent to which its threat of moral erasure or abandonment has been realized. This is a substantial part of the work of reparations in the present.

Those who suffer moral vulnerability as victims may feel it acutely. They may be infuriated by the questions raised about their understanding of the facts and wrongs of the matter and outraged by the fact that those to whom they assign responsibility often have the power—socially, institutionally, and politically—to also appoint themselves arbiters of the validity of responsibility

claims. They may be frustrated by the degree to which their claims are met with confident or casual rejection or are deemed false, incredible, or exaggerated. Pierre Hazan (2010), writing of the fractious 2001 World Conference Against Racism in Durban, describes a European diplomat as saying that African claims for compensation for colonialism and slavery were “unreasonable, bordering on psychotic” (p. 86), while Rosa Amelia Plumelle-Urbe, an Afro-Columbian writer, says of the Europeans, “They procrastinate and assume a right that defeated Germany itself never dared claim, that of defining their crimes, and, in place of their victims, to decide what historic weight to give or not give to these events” (p. 70). It is true that those seeking reparations might be mistaken in these feelings and the perceptions that ground them. But it is also possible that they might be experiencing precisely an asymmetry in relations of accountability that shifts the burden of proof and justification to them, even as it seems to tilt the balance of respect and credibility away from them. Issues of moral vulnerability are diffuse and abstract relative to the harms victims grieve and for which they seek repair; these harms can include lost years of wrongful imprisonment or the deprivation of professional work, ravages of torture, the disappearance of a child, or the dispossession and decimation or the enslavement and subjugation a people. It is obvious in many cases that what has been lost can never be returned or compensated. No one knows this better than the victims. The struggle for reparations is nonetheless crucial to see whose claims will be acknowledged and whose responsibility will be established. Without understanding moral vulnerability, one does not understand what is at stake in reparations attempts and why they proceed as they do.

Often reparations (or reparations demands) come in waves, or in fits and starts, as partial acknowledgment, rebuffs, offers, shifts in perspective, and historical and political developments unfold within or around the struggle or negotiation for reparations. This is most so in reparations for structural injustices or mass violence in the national or international political arena. Reparations, I suggest, are really about a present moment (although sometimes a protracted one) in which those held responsible for reparation and those seeking it, and possibly others, argue over acceptable interpretations of the past they can share and try to negotiate an interaction in the present that models fair terms of reciprocal recognition and accountability. The moment that a discussion concerning reparations commences is a moment of considerable uncertainty for all parties to the interaction. Those who had confidently ignored or denied others’ claims of injustice and injury are responding newly both to the claims and to a new standing for the claimants. Those putting claims are beginning to exercise powers and might experience leverage and opportunity long denied them. This means that things are already not what they were, but are not yet what they need to become. One might characterize the sense of relationship among the

parties as the possibility of reparations dawns and momentum for reparations builds as a midway (if not a mid-air) position, in terms of accountability. Reparations are about where the parties can get to in the present in an attempt to transform their relative positions in the past. A reparations effort might best be seen as a bridge from a past not just of unrepaired harms but also of accountability denied to a present of reciprocal accountability acknowledged. Seeing it this way brings into focus the intricacy of the threats, wounds, tentative steps, and difficult new understandings that are characteristic of the reparative process.

This leads me to the second point: It is unrealistic to expect from reparations measures too much and implausible to explain the function and aims of discrete gestures or programs of reparations too largely in terms of distant future relations. It is true, ideally, that the establishment of fair terms of accountability and shared recognition of the moral standards they predicate should forecast better future relations. It is certainly true that successful reparations are in part successful if and because they render parties to the interaction hopeful about future relations. A measure of success is whether the parties are moved to try to fulfill the promise for a possible future that reparations token. Successful reparations ignite hope; hope involves energized attention, imagination, alertness to possible routes to the goal, and the resilience to keep looking for and trying them.¹⁶ But reparations given are best understood as a marker of present achievement in the history of relations among people or among peoples, an achievement measured by its distance from the past scene of wrongdoing.

With respect to the future, reparations can only at best set an example and make a promise or commitment based on what is achieved in the present instance. The idea that they actually achieve trusting, respectful, and compassionate relations asks too much, especially in the aftermath of gross and massive violence or intergenerational injustice. That they give reason and create motivation to seek out possibilities for building trusting, respectful, and compassionate relations is a more fitting goal. As the wrongs of the past set terms for reasonable fear, disillusionment, hatred, or cynicism, the present at best can give reasons for hope by creating a sense of what is possible. Hope in turn creates motivation to build the relations that the reparative interaction at its finest exemplifies and models. I do not think it wise to claim that it builds those relations; it supplies a model and ideally kindles receptiveness and motivation, for that construction project over time and under tests. This underscores the important point that reparations do not “close books” in many cases; they instead get parties on the same page concerning accountability going forward.

¹⁶ A fuller discussion of hope and repair is found in Walker (2006a, 2010).

4. Conclusion

I have argued that we can make sense of significant differences in a large range of reparations contexts by viewing the core issue of reparations as the negotiation by parties of mutually acceptable standings in accountability relations governed by shared norms. Not to enjoy such a standing is not only to be open to disregard, attack, or abuse but also to lack an effective claim upon those responsible to give accounts and to take responsibility for wrongful harms one has endured. Yet it would not be right, either, to say that reparations are “not really about the money.” Money or other material transfers are often very much at issue. It is better to say that sometimes it is crucially about material restitution or compensation but is not so in every case and that, even where compensation is in order, the reparative momentum depends on what the money or goods mean. Restitution or compensation is reparative when, in context and accompanied by other gestures, it can sustain the necessary messages of acknowledgment that affirm reciprocal accountability under shared standards. The emotional blight and material losses of the internment is not erased for Japanese-Americans unjustly interned, but they received unambiguous validation and multiple gestures of repair as citizens from their nation’s highest representative body. For the Lakota Sioux, the settlement of a property claim by a money payment effaces their understanding of the nature and gravity of the wrong done to them and bypasses the crucial issue of relations among sovereign entities upon which their treaty commitments with the United States were premised. Those women sexually enslaved in Japanese Army brothels who accepted payments from the Asian Women’s Fund might or might not have found the context and message of the money reparative; some might have found it so, while others reasonably judged that they were unlikely to get anything more or better. The women who publicly rejected the payments made clear that they continued to find the Japanese government shielding itself from full accountability to them. Money alone does not avail as reparations.

With states, however, money is clearly one powerful and objective medium in which accountability may be pursued and demonstrated. Yet even when it is, acknowledgment of wrong and responsibility, the embodiment of accountability, is often paramount as a goal and a driving force for victims. Countries such as Germany, Argentina, and Chile have conducted substantial monetary reparations programs, but they took shape in stages, enlarging the numbers of victims and the nature of violations compensated, in an expanding universe of accountability reshaped over time by legal and political developments concerning accountability of states to victims of human rights abuses.¹⁷ It is not surprising that reparations demands entail and respond to shifts in legal and

¹⁷ On German reparations, see Colonomos and Armstrong (2006). On Argentina, see Guembe (2006), and on Chile, see Lira (2006).

political status and standards of accountability, for law and politics embody moral standing in public and enforceable ways.

It is also not surprising that cases where money is won, through litigation or negotiation, are sometimes called reparations even if unambiguous acknowledgment of wrong, responsibility, or an obligation of justice is missing. Victims who pursue legal redress might consider a monetary or restitution settlement a kind of reparations because they believe that the settlement in fact concedes or implies wrong and responsibility publicly whether or not it is admitted. Victims or others may, approvingly or disapprovingly, view monetary payments and other forms of recognition as reparations even when they are not so called by those who bestow them. In 1994, the Florida legislature awarded compensation to survivors of a white riot that burned the African American town of Rosewood, Florida, to the ground in 1923. The State of Florida acknowledged that it failed to prevent the unlawful destruction and provided compensation payments, a scholarship fund, and other efforts. It did not apologize or refer to its compensation as reparations, but it was “the first time that any American governmental body had acknowledged its responsibility for an act of racial violence committed against African Americans, in the long history of such acts” (Nunn 1999, p. 435).¹⁸ In historical context, against a backdrop of denial and silence about many such events, seeing this response as reparations claims a kind of victory. In another case, the Japanese government refused to call the payments it agreed to in connection with its colonization of Korea reparations but agreed to let Korea inform its public that Japan had paid reparations, allowing the meaning of the interaction to play differently for different audiences (Lind 2008, pp. 47–48). It is true that the potential for future disillusionment or betrayal looms in cases in which full acknowledgment of responsibility, precise appreciation of wrong, or acceptance of an obligation of reparative justice is lacking, hedged, or ambiguous. Future behavior, or continuing or future denial of wrongdoers or responsible communities, can reopen wounds, nullifying hopeful reparative interpretations. But this can also happen in cases that fully meet the standard of acknowledgment, responsibility, and intent to do justice. Reparations can only ever be an act or process at one time; the reciprocal accountability they token must be secured and shown real over time.

I have argued that a kind of moral vulnerability inheres in accountability relations. Victims of wrongs are vulnerable to the additional moral insult and injury of being denied the standing of full partners in reciprocal relations of accountability by those they would hold to account. The potential for or the

¹⁸ See also Cose (2004, pp. 154–156), who contrasts this case with that of the Tulsa Race Riot of 1921. Destruction of the African American community of Greenwood, Oklahoma, and the massacre of between 75 and 300 people was documented by a special commission in 2001, but no compensation or other measures of official recognition have been forthcoming.

reality of additional insult and injury in the aftermath of wrongs provides a unifying view of the task of reparations. Reparations must address not only the harm and loss caused by the original wrong but also the nature and extent of the moral vulnerability exposed by the wrong or realized by the absence of redress. The role of moral vulnerability in the past and the present explains why different reparations contexts require very different responses.

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Autonomy and Vulnerability Entwined

Joel Anderson

Although vulnerability often diminishes a person's autonomy, this is not true in all senses. The realization of autonomy, understood as an ideal of personal agency, is entwined with various forms of vulnerability. In this essay, I begin by sketching a conception of autonomy as comprising deliberative, executive, self-interpretive, and critical autonomy competencies developed and exercised within social practices, then discuss two senses in which vulnerability contributes constitutively to autonomy. First, drawing on theories of recognition, I argue that there are crucially important agentic resources for which we are dependent on the recognition of others but that this needs to be understood less in terms of psychological effects and more in terms of the normative pragmatics of successfully vouching for oneself. Second, I argue that because participation in personally significant and even autonomy-promoting social practices is contingent on co-participants' attribution of competence to us, a degree of vulnerability to exclusion is partly constitutive for those social practices and for the forms of autonomy realized within them. Where vulnerability becomes problematic, however, is in cases of surplus vulnerability and of avoidable and unwanted vulnerability. I conclude by considering one issue this raises, namely, the appropriateness of social and political arrangements that facilitate richer forms of autonomy but also generate concomitantly higher levels of vulnerability.

On the face of it, the relationship between vulnerability and autonomy would seem to be rather straightforward. If autonomy is about being able to lead one's own life as one sees fit, then it would seem that the less vulnerable one is to changing circumstances, the more autonomous one would be. But such a simple opposition between being autonomous and being vulnerable misses much that is interesting and important about autonomy, vulnerability, and the relationship between them, especially if one adopts the view that autonomy is best understood as a relational, social, or intersubjective phenomenon.

My claim will be that there are certain respects in which vulnerability and autonomy are ineluctably entwined. Although a person's vulnerability can and often does diminish her autonomy, this is not true in all senses. Indeed, realizing autonomy as an ideal of personal agency requires certain forms of vulnerability. In particular, the acquisition and maintenance of autonomy rely on interpersonal relations in which vulnerability plays a vital role. And a fuller realization of the ideal of autonomy is sometimes possible only within specific social practices from which vulnerability cannot be eliminated. As a result, promoting autonomy is not always a matter of diminishing vulnerability, not in all regards at least.

My aim in this paper is to develop a way of conceptualizing the relationship between autonomy and vulnerability that can accommodate this intuition while still acknowledging the very real ways vulnerability can indeed undermine autonomy. I am keenly aware of the ways vulnerability exposes individuals to domination and exploitation as well as the ways being at the mercy of others or dependent on their good will can erode a person's autonomous agency. Some forms and degrees of vulnerability are antithetical to autonomy, even if one adopts a broad and intersubjectivist understanding of autonomy. Indeed, as Axel Honneth and I argue (Anderson & Honneth 2005), a liberal society's commitment to the protection of autonomy obligates it to do what it can to diminish vulnerabilities that undermine autonomy, including many institutional and cultural conditions that subtly constrain the development, maintenance, and exercise of autonomy.¹ I will have more to say about this in section 2, but I can say here that I now believe this claim requires a more nuanced formulation, one that emphasizes more fully the complex dynamics within which autonomy develops in an ongoing fashion, dynamics that must allow room for certain sorts of vulnerabilities.

As I shall be using the term, a person is *vulnerable* to the extent to which she is not in a position to prevent occurrences that would undermine what she takes to be important to her. Vulnerability is thus a matter of effective control, understood as a function of the relative balance of power between the person in question and the forces that can influence her. Vulnerability can be increased by those forces becoming more powerful or the effects more probable but also by the person becoming less able to counter these forces and effects.²

¹ In that essay, Honneth and I argued that liberal societies have an "obligation to reduce individuals' autonomy-related vulnerabilities to an acceptable minimum" (p. 127).

² For a further discussion of the concept, see also the other essays in this volume and especially the Introduction. See also Goodin (1985). My definition of vulnerability is close to his: "Vulnerability amounts to one person being able to cause consequences that matter to the other" (Goodin 1985, p. 114), except that I opt for a formulation that does not prejudice matters in favor of consequentialism and allows, in principle, for forms of vulnerability to nonpersonal forces (such as disease), although I am focused here on interpersonal vulnerability.

I shall have more to say later about various forms and degrees of vulnerability, especially in Section 4, but I turn now, in the next section, to discussing the concept of *autonomy* that I am using here. I shall present a nonstandard—but, I believe, apt—understanding of autonomy that situates it within a complex array of relations that agents have to themselves and to the social practices in which they participate. In particular, I will be emphasizing two aspects of the intersubjectivity of autonomy, which I term *recognitionally secured agency* (section 2) and *participation-affording competence* ascriptions (section 3). This understanding of autonomy puts the relationship between vulnerability and autonomy in a new light by showing the way vulnerability plays an ineluctable role within the relationships that enable autonomy and afford its expression. Where vulnerability becomes problematic, I argue, is in cases of *surplus vulnerability* and of avoidable and unwanted vulnerability. But this analysis brings to light a further, underanalyzed issue regarding vulnerability: To what extent we should avoid social practices and political arrangements that facilitate richer and more complex forms of autonomy but that also generate concomitantly higher levels of vulnerability? Some social practices, cultures, and ways of life involve a higher level of vulnerability, but that is part and parcel of what makes those practices particularly valuable, rewarding, and autonomy enhancing. I argue that the question of whether promoting autonomy requires reducing vulnerability ought to be treated as an open question to be addressed in the political context in which it arises.

1. Autonomy Competencies, Intersubjectivity, and Social Practices

There are many possible understandings of autonomy, many of which are compatible with my hypothesis that autonomy and vulnerability are sometimes interwoven.³ There is, however, one fairly dominant conception of autonomy that will have to be set aside. This is the view—widespread in bioethics, psychology, and the law—that autonomy is by definition opposed to vulnerability, limits, or dependency. The following quote is illustrative of this conception:

We use the term *autonomy costs* to capture the ways in which being part of a relationship restricts one's freedom to pursue one's goals autonomously. Autonomy costs involve the communal costs one incurs in treating a partner well (e.g., the sacrifice of personal time that comes from sharing the partner's favored pastimes), the unintentional costs the partner's parallel existence creates (e.g., snoring, making a mess, being loud), and the largely

³ Overviews of this literature can be found in Christman and Anderson (2005), Christman (1989), and Taylor (2005). See also Buss (2008) and Anderson (2013a).

unintentional costs the partner imposes by satisfying his or her own goals (e.g., not doing what he or she promised to do). As such, autonomy costs represent the inherent, but not necessarily prohibitive, costs that come with interdependent life. (Murray et al. 2009, p. 257)

There are several odd qualities to the view of interpersonal relationships implicit here, but the key point for present purposes is that the conception of autonomy underlying this passage treats autonomy as fundamentally about being in a position to effectively control one's circumstances. Indeed, if one adopts this conception then it follows analytically that susceptibility to influence is something that always threatens to diminish autonomy. One can, of course, simply stipulate this, just as one can stipulate that vulnerability is by definition bad. My guiding conviction, however, is that this empiricist-individualistic focus on increasing one's control over one's circumstances leads to a cramped conception of autonomy, one that is narrowed down to self-assertion and self-protection.

Fortunately, a growing body of literature articulates more nuanced alternatives (Anderson 2013c; Benson 2005; Christman 2009; Friedman 2003; Mackenzie forthcoming; Mackenzie & Stoljar 2000; Oshana 2006). Drawing on these feminist and intersubjectivist approaches, I propose to conceptualize autonomy in terms of the question of what autonomy *affords* a person, what resources it provides, how it empowers or enables her (rather than a set of conditions or claims regarding others' interference with her). On this view autonomy can be seen as an array of capacities that individuals have for leading their lives, in contrast with approaches that view autonomy largely as a condition of causal control. In this vein, Diana Tietjens Meyers (1989) usefully suggests that we speak of autonomy as an array of skills or competencies. Autonomy competencies include, for example, the ability to appreciate what activities one finds genuinely worthwhile, to figure out how to realize one's ends, to step back from one's felt convictions, and to actually carry out one's intentions in the face of temptations. There are thus many dimensions along which autonomy is developed and exercised, including interpretive, deliberative, critical, and executive capacities. In this sense, being autonomous is like being able to find one's way through the woods: you have to discern where you want to go, figure out how to get there, persevere through the brambles, and occasionally stop to ask yourself whether the trip is worth the effort.

What is relevant for the present discussion is that the conception of autonomy I am adopting here conceptualizes these competences as importantly social or intersubjective. There are several senses in which this is discussed in the literature, and it is useful to distinguish them.

In one sense, autonomy can be said to be *social* in that the development and exercise of these competencies are often deeply social in character, as has been emphasized in much recent philosophical work on autonomy.

Autonomy skills are learned with and from others. Social institutions and interpersonal relationships provide the contexts and supports for acquiring these competencies. And many of the most personally significant contexts in which we exercise these autonomy competencies are in social, interpersonal relations.

To illustrate, think of a man who sets out to improve himself in the wake of a divorce. He undergoes psychotherapy and becomes better able to understand what he finds frustrating and rewarding. He starts going to the gym with friends and, by regularly engaging in self-discipline, strengthens not only his biceps but also his capacities for self-regulation (Baumeister & Heatherton 1996). In addition, this growth in self-confidence and self-discipline make him better able to reflect critically on how he has tended to treat women, and as he comes to discuss this more openly with friends he starts to see more clearly the reasons he has to change his behavior. Suppose we say, plausibly, that these expansions in competencies represent an expansion in autonomy competence. In two senses, there is something importantly social or relational about these gains in autonomy. First, they emerge as the result of interpersonal interaction. They have, in other words, a social etiology. Second, the primary domain of application of these autonomy skills may be not in asserting one's own will but in forming and maintaining relationships. These two senses of the social dimensions of autonomy have been central to the recent and insightful literature, especially coming from feminists.⁴ At the same time, however, these discussions remain focused on competencies that are individually held. They are thus contingently social, for their character would not change if there were another way to acquire them, as there sometimes is.

There are at least two other senses in which autonomy competence can be more strongly intersubjective, and they will be the focus of the next two sections. And what is particularly important about them for our purposes is that their intersubjective character is bound up with the fact that, in these respects, we do not have at our own disposal effective control over whether they obtain—even when we are autonomous. It is in these regards, I will argue, that autonomy and vulnerability are interconnected in particularly fundamental ways.

The first constitutively intersubjective dimension of autonomy has to do with the ways in which my agency-constituting sense of self is bound up with my being able to view myself positively by being recognized in my interactions with others (Anderson & Honneth 2005; Honneth 1995, 2007a; for an overview, see Anderson 1995). My autonomy, on this view, is bound up with the availability of a sociocultural context within which my actions and choices are recognized as the actions and choices of an autonomous agent. This is what

⁴ See especially Mackenzie and Stoljar (2000); for moderately critical discussion, see Christman (2009, pp. 164–186) and Friedman (1997).

I will discuss in the next section as *recognitionally secured agency*, drawing on *recognition theory*, especially as Honneth has developed it. What makes this a distinctively *intersubjectivist* account is that these autonomy-enabling conditions are not under one's individual control but are rather co-constituted by one's engagement with them.

The other sense in which autonomy is strongly intersubjective comes up in domains where, to put it bluntly, one needs a certain level of competence as an entry ticket into significant social practices, especially practices within which autonomy is exercised. And here, as well, I don't get to decide solo what counts as adequate. Consider the parallel case of linguistic competence, which will be central to the subsequent discussion. If I want to participate in social practices communicating in German, the conditions for my success are contingent on being taken, appropriately, to be competent.⁵ Of course, what underwrites the correct ascription of linguistic competence are capacities that one has as an individual. But there are important differences between being able to speak German and being able to lift a very heavy object. The ability to lift heavy objects is not, in this sense, dependent on social arrangements. Being fluent in German is, however, essentially linked to there being communicative practices in which one is accorded this status. The point is not simply that the criteria for German fluency are public. Rather, the intersubjective practice in which I wish to participate requires that everyone can properly take a certain attitude toward one another, namely, that the others are competent participants. In this regard, as in the case of *being a chess player*, being autonomous is intersubjective in that, for a certain range of autonomy competencies at least, one has the competence only if one is *taken* to have it.⁶ This is what I will refer to as *participation-affording competence ascriptions* and discuss in section 3. In what follows, then, I will be focusing on these two strongly intersubjective dimensions of autonomy—without wishing to deny the importance of other dimensions of (relational) autonomy.

Acknowledging these two more strongly intersubjective dimensions of autonomy is important for articulating a more nuanced conception of the complex relationships between vulnerability and autonomy. For the more clear it becomes that autonomy depends on intersubjective conditions, the less clear it becomes how there can be a straightforward opposition between autonomy and vulnerability. In the next two sections, I examine these two strongly intersubjective dimensions of autonomy to prepare the way for a discussion, in the subsequent sections, of their relationship to vulnerability.

⁵ My analysis here draws on contemporary work in the pragmatics of communication as developed in the work of Robert Brandom (1994) and Jürgen Habermas (1998).

⁶ See also my discussions in Anderson (2008, 2013b) and Brandom (2009, pp. 52–77).

2. Recognitionally Secured Agency

I turn now to a phenomenon that promises to provide a strong argument for thinking of autonomy and vulnerability as entwined, namely, the idea that autonomous agency is intersubjective because it is partly constituted by relations of mutual recognition. The most influential current philosophical theory of these relations is the recognition theory developed by Honneth, who is widely seen as the leading figure in the third generation of the Frankfurt School tradition of critical social theory.⁷ For our purposes, the key idea of Honneth's recognition theory is that others' attitudes toward us can profoundly affect our autonomous agency by supporting or undermining our sense of self. Our need for recognition thus makes us vulnerable to the changing attitudes of others, but this vulnerability is of a piece with the relations of recognition that seem to be partly constitutive of autonomy. In this sense, one could say, autonomy and vulnerability are entwined. However, several different conceptions of the importance of recognition need to be distinguished here, because not all of them will support the claim that vulnerability and autonomy are necessarily entwined. I will discuss three: (1) the claim that recognition is important because we have a strong desire for approbation and strong antipathy for disapprobation; (2) the claim that recognition is needed to sustain a sense of robust agency and psychological motivation; and (3) the claim that we are dependent on relations of mutual recognition to determine the appropriateness of our sense of self. I will ultimately be arguing that only the last of these recognitionalist claims can support radical interdependencies between autonomy and vulnerability.

2.1. RECOGNITION AS A DESIRABLE FORM OF APPROBATION

I won't say much here about the first approach. The desire for praise and the fear of being disliked are such powerful motivating forces that many philosophers, sociologists, historians, and psychologists have seen the struggle for recognition as a driving motive of the species.⁸ At the same time, if the recognition is conceptualized exclusively as merely another good that we desire, it is hard to see why it would be linked with autonomy, let alone how it could provide a basis for seeing autonomy and vulnerability as entwined. Thus, although the desire for being recognized may well explain much of human behavior, if there is a plausible account of this entwinement to be found it

⁷ The key texts here are Honneth (1995, 2007a) and Anderson and Honneth (2005). See also Anderson (2011b).

⁸ See for example, in addition to classic figures such as David Hume and Adam Smith, Brennan and Pettit (2004) and Bourdieu (1984).

will lie elsewhere. And, as I hope to show, there are good reasons for seeking such an account of the entwinement, in significant contexts, of vulnerability and autonomy.

2.2. RECOGNITIONALLY SECURED AGENTIC RESOURCES

A more promising line of inquiry comes into view as soon as one attends to the profound effects of extreme misrecognition on persons. The effects of denigration, humiliation, ostracism, and disrespect are not well captured as disappointments in trying to secure something desirable. For individuals who are subjected to these and other forms of misrecognition typically experience agentic impairments. The pattern is familiar: the humiliated become passive-aggressive, the ostracized become depressive, the physically violated or neglected become alienated from their bodies and feelings. The effects are typically not merely painful but *debilitating*: they take the wind out of one's sails by raising doubts about whether one's plans are worthwhile, whether one is able to carry them out, and whether one is even competent to judge what is worthwhile or possible.⁹ In this sense, the struggle for recognition can be seen as a struggle not just for something pleasant but also for enabling conditions for autonomous agency.

The precise nature of that relationship is notoriously difficult to grasp, and there is a large and growing literature on both philosophical theories of recognition and psychological studies of how attitudes affect people. In what follows, I will focus mainly on the version of recognition theory Honneth developed. For purposes of the present discussion, this theory of recognition can be summarized as follows.¹⁰ Several aspects of human psychology—self-trust, self-respect, and self-esteem—have emerged historically as crucially important to one's autonomy, to personal integrity, and more generally to the real possibility of formulating and pursuing one's conception of the good life. These psychological complexes are best understood as distinct *practical relations-to-self* that can be formed and sustained only intersubjectively, through one's being granted recognition by someone whom one also recognizes. As a result, the conditions for self-realization turn out to be dependent on the establishment of social relations of mutual recognition. These social relations include intimate relationships (e.g., marriages, families, close friendships), societal structures in which equal standing is secured by the rule of law, and solidaristic communities within which individuals can secure a basic sense of belonging and worth. These *social relations of recognition* involve,

⁹ The literature on debilitating effects of lack of self-respect, self-esteem, and self-trust is huge. By way of example, see Baumeister (2010) on self-esteem, Govier (1993) on self-trust, and Dillon (1997) on self-respect.

¹⁰ The basic view summarized here is found in Honneth (1995). See also Anderson (1995).

respectively, mutual love (which is needed for self-trust), mutual respect for equal standing before the law (which is needed for self-respect), and others' esteem for one's contributions (which is needed for self-esteem or self-worth). In short, the intuition here is that relations of recognition provide crucial support for one's self-respect, self-esteem, and self-trust and that these psychological structures are vitally important, in turn, for autonomy. We can thus speak of the relevance for autonomy of *recognitionally secured agentic resources*.

With regard to the relationship between vulnerability, recognition, and autonomy, there are two points to make about this approach. To begin with, it becomes quite plausible to think, on the basis of these considerations, that threats to relations of recognition are threats to autonomy, and thus that promoting autonomy requires reducing vulnerability to these threats (Anderson & Honneth 2005). At the same time, there also seems to be a sense in which there is an intertwining here of vulnerability and autonomy. For if there is no way to *guarantee* that we will receive the recognition we need, then there is no way to eliminate, from the ongoing process of becoming autonomous, our vulnerability to misrecognition. This is because becoming autonomous requires developing the self-trust, self-respect, and self-esteem that can be acquired only within these relations of recognition.¹¹ Thus, someone not vulnerable to misrecognition would lie outside the interpersonal space within which these relations-to-self are acquired and maintained.

I would now like to take up two important objections to this way of linking autonomy, recognition, and vulnerability. One objection is directed at the basically psychological character of this approach, which seems to be both overly general and insufficiently intersubjective. The second objection is directed at the idea that vulnerability might be ineliminable. I believe that these objections carry significant weight and should encourage us to look elsewhere for an account of the connection between recognition, vulnerability, and autonomy. I then turn, in the last part of this section, to a third—and, I think, more plausible—way of making this connection.

The first objection, then, is that the theory of recognition just sketched seems to be falsified by the existence of many people who are able to lead evidently autonomous lives despite being denigrated, neglected, abused, and disrespected. If recognition theory takes relations of love, respect, and esteem to be necessary for developing the relations-to-self that are, in turn, necessary for autonomy, then such cases appear to falsify the theory. Moreover, even where there *are* effects, there appears to be a wide variability in the extent

¹¹ This point about unavoidable contingency and vulnerability is important to acknowledge, especially in countering the misunderstanding that, on the view that Honneth and I have defended, the state has an obligation to guarantee that people are actually recognized (rather than working to eliminate unjust material, institutional, and cultural barriers to securing recognition). This objection is raised by Pippin (2008), Baynes (1999), and Kauppinen (2011).

to which misrecognition impairs individuals' autonomy and sense of self.¹² Some people are more resilient and others more vulnerable. The complex psychological dynamics of the process seem not to be as easily pigeonholed as the theory seems to suppose. Furthermore, once one starts attending to these empirical details, it becomes hard to see why the autonomy being discussed here is intersubjective in the strong sense discussed in section 1. Of course, our attitudes toward ourselves are partly shaped by what others think of us, but this is a causal effect upon something that remains individually possessed, namely, my psychological states and dispositions (e.g., self-trust, self-respect, self-esteem).¹³ As a result, it becomes unclear why the recognition is either necessary for autonomy or necessarily intersubjective.

In responding to this broad objection, recognition theory has to yield some ground, particularly to the extent to which it relies on empirical psychological claims. As I will discuss, there are those who argue that recognition theory is defensible only once it gives up the aspiration to connect up with empirical psychology, but I think that much of the potential of the recognition-theoretic approach lies in engaging with empirical research in personality and social psychology, in the spirit of the Frankfurt School tradition of empirically informed social criticism. That said, further developing the account in this direction requires weakening claims about *automatic* or *conceptual* links between misrecognition and impaired autonomy. Insofar as the links between autonomous agency and recognition are seen as psychological, the links will be a matter of broad tendencies, and much work will need to be done—interesting, interdisciplinary research, I think—to specify the conditions under which recognition and misrecognition are associated with supporting or undermining autonomy-related relations-to-self. There are good prospects for this. For example, one could adapt the *diathesis–stressor framework* from psychopathology and then approach instances of misrecognition as *stressors* that can lead to varying degrees of dysfunctional relations-to-self in people, depending on their dispositional susceptibility (*diathesis*) and other factors in the social environment (see, e.g., Gazelle & Ladd 2003).

At the same time, if recognition theory became exclusively a psychological account of the agentic resources that emerge from our interactions with others, then the prospects would be slim for finding an account of the entwining of vulnerability and autonomy here. Once self-trust, self-respect, and self-esteem are approached as causal, psychological effects of interactions with the social world, the possibility opens up that, at least once agents have acquired self-trust, self-respect, and self-esteem, they might choose to protect and preserve these hard-won gains by reducing their exposure to misrecognition. There may be

¹² For the sort of distinctions that need to be explored see, for example, Tafari and Milne (2002).

¹³ Especially for Hegelian critics of Honneth's (and my) theory, this focus on psychology has been seen as leading to a misunderstanding of the intersubjectivist insights in Hegel (see footnote 15).

limits to how far one can go in withdrawing, but there might be many circumstances in which the best way to defend the relations-to-self so important for autonomy is by making oneself *less* vulnerable by withdrawing from contexts in which one is subject to misrecognition. And in that regard, reducing a person's vulnerability would again seem to necessarily promote autonomy. If, then, we are to come up with a recognition-based account of the intertwining of autonomy and vulnerability, more is needed.

2.3. THE NORMATIVE PRAGMATICS OF SUCCESSFULLY VOUCHING FOR ONESELF TO OTHERS

To capture this entwinement, one needs to shift the focus to a different understanding of the constitutive contribution of recognition to autonomy, an understanding that emphasizes the *normative pragmatics* of vouching for one's self-trust, self-respect, and self-esteem. As a passive recipient, one can benefit psychologically from being esteemed, loved, and respected by others. But this is something different from being recognized in response to one's asserting or claiming that one deserves to be recognized. And it is this latter mode of engagement that is relevant for autonomy, according to recognition theory. In acting and choosing, we are asserting ourselves, vouching performatively not only for the appropriateness and intelligibility of our actions but also for our worth, our dignity, our place at the table. In vouching for myself—in claiming authority to speak—I am appealing to others for recognition. Succeeding at this is impossible for me to do alone.

At the same time, this introduces a normative dimension. For although others' esteem, for example, may have psychological benefits even when it is unwarranted, one can understand one's self-trust, self-respect, and self-esteem to be both genuine and one's own only if one can vouch for them *as warranted or deserved*. This point has also been developed recently in discussions of *self-authorization*, the idea that autonomy is anathema to insulating oneself from critique and thus that taking oneself to be autonomous entails understanding oneself to be answerable to others (Anderson 1996, 2003, 2013c; Benson 2005; Westlund 2003, 2009). But vouching for oneself puts one's claim to respect and esteem into the public domain as open to dispute. And here the point about normativity and the point about intersubjectivity intersect in a way that parallels Hilary Putnam's (1985, p. 227) slogan that "'meanings' just ain't in the head": just as no individual can decide alone what her utterances mean,¹⁴ no individual can ultimately decide for herself alone whether, in vouching for her self-esteem, self-respect, or self-trust, she will be successful. Thus, although one can secure psychological benefits from others' recognition

¹⁴ See also Burge (1979).

even when it is unwarranted, and although one can correctly believe by oneself that one is deserving of recognition, the possibility of successfully vouching for oneself as autonomous requires both an intersubjective and a normative dimension. Without intersubjective recognition, the “actuality” of what one is vouching for is left in suspension.

And this brings us back to vulnerability. Vouching for oneself renders one vulnerable to challenge and rejection. But reducing this vulnerability would not make one more autonomous, since the only way to limit it is by insulating oneself from critique, which would precisely undermine one’s autonomy. For my purposes, the upshot of this is we get an account in which autonomous agency is fundamentally dependent on the recognition of others and is thus vulnerable to its being withheld, but since attempting to limit this vulnerability jeopardizes one’s claim to autonomy we have a strong sense in which vulnerability and autonomy are entwined.

Two comments are in order here. First, it is important to distinguish the fundamental vulnerability involved in vouching for oneself from the *de facto* exposure to arbitrary and unjustified misrecognition. Reducing the latter form of vulnerability serves to promote autonomy, and thus my entwinement claim applies only to the extent to which the attribution or withholding of recognition is part of an open, reciprocal, ongoing process of giving-and-asking-for-reasons in which anyone can be held accountable for granting or withholding (Brandom 1994; Habermas 2001). And, indeed, if it turns out that the actual community to which one must be accountable is narrow-minded or otherwise unresponsive to one’s claims to appropriateness, then possibilities for full and genuine autonomy will be limited.

Second, it is worth noting that this normative understanding of the struggle for recognition moves recognition theory in the direction of less empirically oriented Hegelian approaches, such as that of Robert Pippin (2008, pp. 183–209), who have argued against approaches to the connection between recognition and autonomy that focus on *psychological harm*.¹⁵ At the same time, the account just sketched provides a way of accommodating both perspectives. As empirical psychological phenomena, self-trust, self-respect, and self-esteem are undeniably important resources for autonomous agency, and individuals or social structures that thwart their development are pernicious threats to the autonomy of individuals. In this regard, there are circumstances in which promoting autonomy may require not just correcting those influences but also reducing one’s vulnerability to potential misrecognition, perhaps by withdrawing into a more supportive subculture or private life. As inherently normative phenomena, however, appropriate self-trust, self-respect, and self-esteem can be secured only as part of an intersubjective process in which one must remain

¹⁵ See also Fraser (2003) as well as Honneth’s (2007b, pp. 351–352) response to Pippin. These issues are taken up in a different but insightful way in Ikäheimo (2007) and Laitinen (2007).

vulnerable to correction from others—others whom one can, in principle, also correct. In this regard, however, the entwinement of autonomy and vulnerability is welcome.

3. Participation-Affording Competence Ascriptions

I turn now to another dimension of autonomy competence, one that is more context specific, in the sense that essential elements of one's autonomy competence are dependent on attitudes of others in such a way that others' ascription of competence to us determines whether we get uptake in social practices. This is what I have called participation-affording competence ascriptions. The claim I shall be defending in this section is that (1) some valuable modes of being autonomous are made possible within certain social practices and are strengthened by them in important ways, (2) these social practices require the mutual attribution of competence to one another, and (3) the unavoidably conditional character of these attributions means that aspiring participants are vulnerable to being legitimately (or illegitimately) excluded from participation on grounds of insufficient competence. I begin with the second and third points, clarifying the nature of participation-affording competence ascriptions in general, and then turn to social practices and competencies tied specifically to autonomy. In the next section, I take up the normative questions raised by this entwinement of autonomy and vulnerability.

Take, once again, the case of a conversation in German (or any other language). It is a necessary condition for you and me to have a conversation in German that each of us takes the other to be able to speak and understand German. Otherwise, we are engaging in a different practice, say, playfully exchanging German-sounding noises with each other, as I sometimes do with my daughter. For a genuine conversation, genuine language skills are required. If you refuse to take me to be a German speaker, then the social practice of a conversation in German becomes impossible. This refusal to ascribe competence may be legitimate or illegitimate, but however pernicious illegitimate exclusions are, it is the *de facto* exclusion that suspends the practice. If, for example, I refuse to accept as legitimate your nonattribution of German-language competence to me, I can appeal to you to reconsider, perhaps by challenging your entitlement to judge my competence, something that you, in turn, can dispute. This gives rise to a form of reflexively accountable practice in which participants must adjudicate, from inside the practice, disputes over the attribution of competence.¹⁶ My central point here, however, is simply to underscore the necessity of mutual ascription of competence for the

¹⁶ See, in addition to Brandom (1994, 2009), Anderson (2008), Lance and White (2007), and Kukla and Lance (2009). Regarding the relevance for interpersonal justice, see Fricker (2007).

social practice. If you (or I) have what the other takes to be only subpar skill levels, we can only pretend to be engaging in the practice that does presuppose these competences. But that is to be engaged in yet another social practice.

The reference to *subpar* competence highlights an obvious and important complicating factor: what counts as *competent* is neither fixed nor absolute. Suppose I decide that it is pointless to continue speaking German to you because we cannot really have a proper conversation in German given how much you evidently misunderstand of what I am saying. If you retort that your German is “good enough” to keep conversing in German, you could be making either or both of two claims. You might be objecting to how I have interpreted the evidence, and you might even go so far as to claim that this shows that your German is actually better than mine, perhaps because you are using subtle idiomatic expressions that I confuse with errors. More likely, however, you may be insisting that we can still have “a conversation in German,” if I would just stop using such complicated grammatical constructions and unfamiliar words. In other words, here the objection would be that I am setting the bar for a “proper conversation” too high. Your exclusion from the conversation (suppose there are others with whom I continue conversing in German) is a function of how demanding the entry requirements for the social practice are taken to be. In this sense, your vulnerability to marginalization or exclusion is also a function of the contingent way in which the social practice is set up. If I were to slow down and use more familiar words, the conversation would be more inclusive. By extension, a social world characterized by more inclusive forms of communication would reduce individual and aggregate levels of vulnerability (at least with regard to conversational exclusion).

This line of thought might be thought to generate a general obligation—as a matter of justice or of promoting autonomy—to make practices as inclusive as possible.¹⁷ We might, indeed, welcome a society’s commitment to more inclusive conversational practices. But, in fact, a commitment of this sort is probably best seen as substantive *ethical* or ethical-political claim—in the sense distinguished by Bernard Williams (1998) and Habermas (1993) from an unconditional moral obligation—with regard to how inclusive it would be good for social practices to be and thus how demanding it would be good for them to be, in terms of the competencies presupposed. But as a general principle, maximizing inclusiveness has real costs. For there may be strong countervailing reasons in favor of a more demanding set of entry requirements. It may, for example, be perfectly legitimate for me to want to preserve the social practice within which I can converse fluently in sophisticated German. Clearly, it will be important to do this in a considerate way—indeed, there is much more to be said about the reasons for being inclusive or accommodating—but

¹⁷ See, for example, Kittay and Carlson (2010) and Mackenzie and Scully (2007). This is also explicit in the United Nations (2006) Convention on the Rights of Persons with Disabilities.

it remains the case that the social practice can have a value that justifies it despite the exclusionary effects. This is in part because certain goods can be realized only within social practices of a certain form.¹⁸ These are social practices within which individuals find meaning and value. Put bluntly, a requirement that all social practices be made maximally inclusive would generate real and significant loss for people. What the nature of that loss is and how much it ought to weigh are complicated questions, and I will have more to say about them. All I have tried to make plausible here is that some social practices (e.g., a conversation in German) require the mutual attribution of competence, and the conditional character of these attributions means that aspiring participants are vulnerable to being legitimately (or illegitimately) excluded from participation on grounds of insufficient competence.

Turning now to the discussion of autonomy, I wish to make plausible the idea that some social practices parallel conversations in German but the capacities at issue are matters of autonomy. As I mentioned earlier, in speaking of autonomy, I am speaking of the package of skills and capacities that are crucial for leading one's life as one's own. These are skills that one can develop (or lack) to varying degrees. Many of the contexts in which they are vitally important are individual contexts, in which one's success is largely in one's own hands. But there are also social contexts in which participants must be able to presuppose of one another a sufficient level of autonomy development if the practice is not to be pointless. To illustrate the general phenomenon, consider the following three examples of social practices in which a specific autonomy skill must be mutually presupposed—as becomes particularly clear when it is lacking.

The social practice of giving and taking advice requires that participants can confidently attribute to one another a fairly high level of sensitivity to the relevant reasons as well as an ability to appreciate the implications of various scenarios. It presupposes, in other words, a significant degree of *deliberative autonomy*. Suppose I am discussing with a friend from graduate school whether I should accept a job offer at a different university. I have sought him out because he appreciates the issues I am weighing, is able to think through hypothetical scenarios, and has a good sense of the work environments that I find congenial. My friend similarly presupposes my responsiveness to reasons and a degree of rationality in being able to think the various scenarios through together. For his part, this advice-giving practice would quickly lose its point if I were too closed-minded or too confused about my own preferences to appreciate what he says about the potential implications of the job change for various other aspects of my life. And the same goes for me. If enough of the initial presuppositions are disappointed, we would slide into a

¹⁸ This is a point that Charles Taylor (1989) makes, for example.

different practice, one in which we politely exchange idle speculations about “how it might turn out”—the sort of noncommittal conversation one can have with anyone. But however worthwhile such noncommittal exchanges can be, especially in the civil interactions between strangers in a liberal society, they lack something important compared with the more demanding conversations in which advice is genuinely given and taken. Specifically, they do not provide the same opportunity for the exercise and further development of the deliberative skills that partly constitute full autonomy. In this sense, having access to practices of giving and asking for advice affords one a very important (if not necessary) context for the ongoing development of one’s autonomy. But that access is not guaranteed, and, especially when the practice takes the most demanding forms—which are, in turn, often the most autonomy enriching—we are all vulnerable to not having that access.

A second case to consider focuses on *executive* components of autonomy, such as capacities for self-restraint. At the college I went to, my final exams were always unsupervised. As students, we were in principle free to take our examination papers to a café or the library and complete it there, as long as we abided by the pledge that we wrote on the front of every examination booklet, “I pledge my honor that I have not violated the University Honor Code in completing this examination.” It was wonderfully liberating, and I recall feeling truly respected as an autonomous agent. Of course, like many practices involving trust, this social practice is premised on each person being not just committed to honesty but also able to exercise quite a bit of self-restraint, and it loses its point if this cannot be presupposed. Indeed, when it becomes evident that individual students don’t have the executive autonomy that is presupposed—when they are caught cheating—they are subject to expulsion from the university. Here again, at least in the cases where cheating involves weakness of will rather than strategic free-riding, we have a practice in which access to the social practice is conditional on demonstrating the requisite level of (autonomy) competence and where that access makes available otherwise unavailable contexts in which autonomy can be expressed and further developed. Alternative arrangements would be more inclusive by presupposing less in the way of a robust superego, and that is what most universities have. There may be plenty of reasons for doing that, but the loss involved is real in terms of fragile modalities of trusting, respectful cooperation in which we can live freely and autonomously together. This may explain, incidentally, why it angers me as an instructor so much when students cheat: they thereby force me and my colleagues to adopt forms of assessment that presuppose less autonomy and thus to eliminate social practices in which the mutual presupposition of autonomy is less in play.

Finally, consider a third set of interpersonal practices in which participants must presuppose significant autonomy skills, in this case the interpretive, *disclosive*, or hermeneutic capacities involving openness to core subjective needs

and desires. These are vital to the giving and taking of advice just discussed, but here I am also thinking of the forms of open exploration of possibilities and candid self-examination that occur in intimate relationships such as close friendship or romantic partnership. The idea is that some forms of autonomy require relationships in which each participant can assume both the ability to open up and the tender, engaged attitude to support this risky self-exploration. Mutuality matters enormously here, as does trust. But at core, there is a presupposition that the other can sustain these attitudes and display genuine empathy. When either party believes this is lacking, the conditions for nondefensive self-exploration and expression crumble. This occurs in a variety of contexts, from painfully struggling to talk through conflicted feelings to playfully making love. The dimension of autonomy afforded by these social practices is the self-understanding and self-exploration necessary for being able to vouch for one's particular identity.¹⁹ Again, there are various levels of demandingness and emotional risk here. There are forms of intimate friendship in which all that is presupposed is that one is open about some matters that one would like to keep private.²⁰ And of course, there are close friends who have no interest in engaging in practices of intimate self-exploration. There are also forms of intimate friendship and romantic relationship that demand rather little of this self-exploration, and it is no part of my claim that such relationships should not count as relationships of genuine friendship or love. What they lack may not be of interest to some people, but they do lack something, namely, the sort of mutually assured space that tends to be vital for most humans to pursue genuinely open, candid, and risky self-exploration. Intimacy is thus doubly linked to vulnerability: it involves participants making themselves especially vulnerable to the forms of hurt that can be inflicted when one bares one's soul or one's body, and there is an additional vulnerability stemming from the fact that individuals may be legitimately excluded from some social practices if they lack the requisite capacities for intimacy.²¹

In each of these three cases—and in many others—some social practices are built up between individuals, who can then realize, within and through these practices, certain forms of autonomous agency. These valuable possibilities for enriching and expanding autonomy are made available at a cost, however.

¹⁹ I am referring here to Habermas's (1992) intersubjectivistic account of the existential dimension to the pragmatics of identity, particularly his discussion of "*Selbstvergewisserung*" (vouching for one-self). For a discussion, see Anderson (2011a).

²⁰ On the ways privacy affords the development and exercise of autonomy, see Rössler (2005).

²¹ What distinguishes my discussion of autonomy-expanding practices of intimacy from Honneth's account of love (discussed in the previous section) is that Honneth's focus is on basic relations-to-self whose (empirical) significance for autonomy lies in their contribution to one's cross-situational psychological makeup, whereas the forms of autonomous agency afforded within social practices that I have been discussing have a less fundamental status. They are important components of some persons' conception of a good life, and, in some social contexts, they can further become vitally important ways of developing skills that secure one access to other social practices.

For especially the more demanding forms of autonomy practices unavoidably bring with them a vulnerability to exclusion.

4. Surplus Vulnerability, Unwanted Vulnerability, and Regimes of Autonomy

In the preceding two sections, I have elaborated on two senses in which the realization of certain forms of autonomy requires a degree of vulnerability. Articulating this possibility of an entwining of vulnerability and autonomy is the central aim of this essay, as part of a broader concern with challenging the continued dominance of the view that autonomy is all about independence and the defense of a strong inner citadel.

The natural concern to raise here, however, is that this claim about entwinement can make us blind to the ways autonomy is threatened by vulnerability. This is a familiar worry about relational or intersubjectivist approaches to autonomy more generally, and it is important to face it squarely (Christman 2009, pp. 164–186; Friedman 1997). The question, in other words, is this: If autonomy and vulnerability are entwined, at least in the specific ways I have been arguing, what does justice demand, especially where there are trade-offs between promoting autonomy and diminishing vulnerability?

Clearly, vulnerability can be simply awful for people and can erode their agency in subtle and profound ways. All too frequently, this is a matter of natural forms of vulnerability (e.g., our need for food or shelter) or straightforwardly pernicious forms of domination. Excellent analyses of these forms of vulnerability can be found elsewhere, especially in the other essays in the present collection. My focus here is on cases in which vulnerability must be accommodated or even welcomed as part of the development of autonomy, and I will be focusing particularly on the form of entwinement that came to the fore in the previous section, returning only at the end of the essay to the issue of normative grounds for critiquing some forms of vulnerability.

My strategy will be to emphasize the importance of sociohistorical context in developing an adequate normative evaluation of any given case in which autonomy and vulnerability are entwined, so it is important at the outset to say something about this dimension of the intersubjectivity of autonomy. To begin with, I take autonomy to be an historical phenomenon, not only in the sense that the autonomy of an individual's choices depend on the etiology of her desires and values²² but also in the sense that *what autonomy is* (including which autonomy competencies comprise it) is itself the product of an ongoing historical process and can vary with the social and historical contexts in which

²² This point about the historical dimension of autonomy is familiar from the work of John Christman (1991), Alfred Mele (1995), and others.

people find themselves. One need not endorse any controversial claims about social evolution to acknowledge that the set of capacities typically presupposed in attributing autonomy to one another has become much more demanding than in the past, particularly in today's complex, highly industrialized societies. As Honneth, Habermas, and others argue, there have been fundamental historical changes in the substance of autonomy: under modern conditions, what it means to have the self-respect that is partly constitutive of autonomous agency is tied to certain legal rights in a way that was inconceivable earlier.²³ The further point here, and one that goes back to Émile Durkheim, is that these changes often also require individuals to acquire greater levels of competence.

In the formulation of Durkheim (1984), the obligation to be a *person* (that is, "an autonomous source of action") is tied to processes of differentiation in society, whereby individuals increasingly get different roles that they must fulfill, in coordination with others: "Thus the advance of the individual personality and that of the division of labor depend on one and the same cause. Thus also it is impossible to will the one without willing the other. Nowadays no one questions the obligatory nature of the rule that ordains that we should exist as a person, and this increasingly so" (p. 336). The imperative to be autonomous, in other words, is relative to the development of social structures in contingent and historically specific ways. Because personal autonomy initially has its value and function in the context of navigating choices, the more complex a society becomes and the more choices individuals must face, the richer and more developed their autonomy has to be to be able to fulfill that function successfully. The upshot is that in more complex societies not only must one (as Durkheim argued) be autonomous but there is also an expansion in what being autonomous involves. This process of modernization continues in the form of what Ulrich Beck (1992) and others term *individualization*.²⁴ As traditional restrictions have loosened regarding choices of occupation, marriage partners, religion, lifestyle, and so on, contemporary individuals must make dramatically more decisions than their grandparents. The expansion in possibilities for choice brings with it an expansion in the responsibilities for choosing well. If one grows up in a highly conventional social world where one's choice of occupation, spouse, religious affiliation, and so on is set at birth by one's place in society, there is not much autonomy to exercise and not much to be blamed for in terms of planning out one's life. As these matters all become the responsibility of individuals throughout society, everyone is under pressure to become autonomous, in this sense of developing the skills

²³ Honneth (1995, pp. 92–130; 2010) develops this claim. Habermas's (1987) account of this can be found in his discussion of Durkheim (Habermas 1987, pp. 43–111) and in his discussion of Mead (Habermas 1992). For an attempt at a succinct reconstruction of this claim, see Anderson (2011a, especially pp. 101–104).

²⁴ Habermas (1992, pp. 193–200) discusses this.

to make complex choices, guided by a clear understanding of what one really cares about. And these pressures leave many behind, thus highlighting another dimension of the entwinement of autonomy and vulnerability.²⁵

One could see this expansion in the demandingness of autonomy as simply unavoidable, or perhaps as an advance that outweighs the costs, or alternatively as an unmitigated disaster that ought to be reversed as much as possible. A more plausible and nuanced view, however, would allow for consideration of the relative merits of context-specific changes in the degrees of demandingness (and thus vulnerability) paired with specific autonomy-related social practices. For this phenomenon, I would like to introduce the concept of *regimes of autonomy*.²⁶ The idea is this. As we have seen, some social practices provide contexts within which a form of autonomy can be realized that is not available in other social practices, specifically social practices in which certain skill levels are not presupposed. We can thus envision a diversity of social worlds or regimes, some of which are marked by a large number of social practices that presuppose high levels of autonomy skills but where other regimes might lack many of these social practices or be marked by a preponderance of social practices in which relatively little in the way of autonomy skills is presupposed. One can think of this as a continuum of regimes, on a parallel with societies that are characterized, on one hand, by inclusion, accessibility, and solidarity and, on the other hand, by competition, innovation, and aspiration. To take a parallel case, one can distinguish similarly different regimes of sports, one in which the culture is highly differentiated in terms of popular sports and elite sports, with many sports requiring serious investments of effort and resources in training and equipment, and another culture in which the predominant forms of sporting activities are accessible to all members of society and where the goods that are central to the practice can easily be realized by participants. Obviously, real societies have a mix of these elements, but as *ideal types* they bring into relief relevant characteristics of different social practices.

The normative issues that arise at this point are complex. If reducing vulnerability and maximizing inclusion were all that mattered, then the less ambitious and less demanding regimes would be preferable. But given that there are participants for whom these more demanding social practices have real value—perhaps even encompassing *ground projects*²⁷—the question becomes what reasons there might be for saying that the additional vulnerability these social practices bring with them might be normatively objectionable.

²⁵ Here I am departing from Honneth (especially 1995, pp. 171–179), who tends to see these developments as having a certain logic to them. I favor a more cautious approach that does not attempt to locate the source of normativity in that developmental logic.

²⁶ I develop this idea more fully in Anderson (2013b) and in Anderson and Claassen (2012).

²⁷ Bernard Williams (1981) speaks of ground projects in articulating the idea that certain concerns, commitments, relationships, and so forth may be fundamental to a person's life having meaning and worth for that person.

Developing a full account of the relevant normative considerations is beyond the scope of this essay, the goal of which has been the preliminary task of identifying this domain of normative inquiry. But several things can be said about how such a normative inquiry might proceed.

One possibility for normative assessment has to do with what one might call surplus vulnerability, which refers to the level of vulnerability being greater than is actually *necessary* to secure the related enrichment of autonomy.²⁸ Herbert Marcuse coined the term surplus repression as a way of acknowledging that some level of repression is functional and important for a good life and a civilized society (Marcuse 1991). By analogy, social practices or regimes of autonomy that lead to surplus vulnerability would be normatively objectionable because the exposure to risks of exclusion is higher than it needs to be for the realization of autonomy. For example, if social practices that presuppose high levels of executive autonomy expose many to risk of exclusion but do little to contribute to the realization of greater autonomy, then we ought to look for less demanding alternatives. In light of the point previously made about the diversity of regimes, there is a limit to this argument, however. This is because there is room for pluralism and disagreement about what is functionally necessary, since the *function* itself is contested. Think again of the earlier discussion of two possible practices of German conversation, one of which requires much more proficiency than the other. On what basis can one say that one or the other is unduly demanding *as a practice*? There is undoubtedly important normative work to do in figuring out whether, in each case, the demand for greater conversational proficiency is just being “precious” or a form of social gatekeeping. If this is the case—if, for example, the conversation-internal goods are not significantly enhanced by insisting on grammatical niceties—then it might be appropriate to speak of surplus vulnerability (in this case, surplus vulnerability to exclusion from social intercourse). Thus, one must constantly ask whether there aren’t more inclusive ways of securing the same gains. But there may also be cases in which the German novice’s accusation of surplus vulnerability is to be explained by an inability to appreciate the goods internal to the more demanding (and thus more exclusive) conversational practice of the highly proficient. In such cases, what is needed is a way of engaging in cross-practice evaluation, and for this the concept of surplus vulnerability is ill suited.

Addressing this point adequately would require a full-blown theory of what threshold levels of autonomy skills are required to be included as a functioning member of a complex modern society. Here, however, my more limited aim has been to suggest how such a normative analysis of vulnerability could proceed and, in particular, to underscore the importance of integrating that

²⁸ The notion of surplus vulnerability is thus different from the concept of pathogenic vulnerability as discussed by Catriona Mackenzie, Susan Dodds, and Wendy Rogers in their introduction and their individual contributions to this volume.

analysis in the broader social-theoretic context in which autonomy emerges and operates.

I turn now to a second possible approach to normatively assessing regimes of autonomy in cases where vulnerability and autonomy are entwined. This involves focusing on the extent to which a person's vulnerability is unwanted and avoidable, as strong *prima facie* grounds for promoting its elimination. Some people may freely consent to a higher level of vulnerability, as part of social practices that they wish to be part of. But if someone really doesn't want to engage in a form of intimate relationship that requires complex skills in bargaining one's soul or doesn't want to master the German skills necessary for certain kinds of practices, then he shouldn't have to.

The issues of voluntariness become vexed, however, as soon as we acknowledge how complicated the occasions are for participating in social practices. I've been presenting social practices as rather free-floating noncommittal contexts of interaction (and opportunities for developing autonomy), as if we were all individuals at a diplomatic cocktail party, passing easily from a sophisticated conversation in English to an informal exchange of pleasantries in rudimentary Chinese to a discussion of politics in intermediate German. Life isn't like that, of course. Our choice of which social practices to participate in is complicated in at least two regards: we find ourselves in relationships, and we have to find our way in a competitive social world.

Frequently, participation in social practices is interwoven with membership in relationships. Engaging in specific social practices is often part and parcel of the relationships we are in: the in-laws insist on poetry readings at holiday dinners, or a lover is very keen on an unfamiliar sport. We come under pressure to keep up, to be able to participate. Here one is vulnerable to exclusion within social practices that one is in a sense bound to (attempt to) participate in. Those who feel pressured to develop and maintain the competencies that are assumed to be central to the social practices are at risk of being marginalized or feeling inadequate (if they try and fail—or don't even try) or of being unfairly imposed upon (if they must make an unwanted effort to get up to speed). On the other hand, those for whom the social practice (and basis of recognition) is important may find that the compromises necessary to make the social practice more inclusive, however interesting and rewarding in other regards, do diminish certain aspects of what makes the enterprise valuable. In these and other ways, important normative concerns arise in relationships regarding how this vulnerability and social pressure is handled. And there are trade-offs here and thus questions of justice.

A parallel point can be made about the less-than-purely-voluntary character of opting out of social practices associated with social, cultural, or economic advantage. In this sense too, the cost of choosing not to participate can be prohibitively high. In subtle ways, it may not actually be a real option to opt out of certain practices, and this then does raise important issues of

justice. For example, to the extent to which being able to participate in linguistically sophisticated conversations determines whether one can get a job, people's vulnerability to exclusion becomes unavoidable. Similar points apply to being able to secure an "entry ticket" to social practices that presuppose high levels of autonomy skills, be it deliberative autonomy, executive autonomy, or affective-interpretive autonomy. If social and political privileges are accorded on the basis of skills developed and exercised in social practices that presuppose high levels of autonomy skill development, then getting access to the practices is not merely like being able to participate in a hobby or club. Under such circumstances, one cannot easily make oneself less vulnerable by not caring about entry tickets, and thus there may be grounds for criticizing such arrangements—especially if particularly demanding—as less voluntarily undertaken.

Again, as in the case of criticism on grounds of surplus vulnerability, the point is that facts about the social practices, when taken in isolation from the broader social context, do not themselves answer questions about what justice demands. As mentioned already, there is a need for a theory of the appropriate floor for the development of autonomy skills that should be guaranteed and enabled, through support for social, institutional, and cultural conditions. But setting these threshold values is itself bound to be a political question, again because the level of autonomy skills we "need" is always also dependent on the social practices we believe are important. We are unlikely to be successful if we look for criteria in constants of human nature or in a transcontextual analysis of what the necessary and sufficient conditions for autonomy *really* are. This is because the relevant concerns with injustice, exclusion, disadvantage, domination, and so forth are not to be located at the level of the practice itself but rather at the macro level, as having to do with how practices make available to people possibilities for developing and exercising autonomy.

Finally, however, one further and rather different normative question still arises, a deeper question having to do with whether and why to promote social practices that enable more demanding forms of autonomy. This is not so much a point about justice, as what Habermas (1993) calls an *ethical-political* question about the kind of communities in which we wish to live.

Suppose, then, that in a given situation there were two possible paths along which autonomy-enabling social practices could develop, two possible *regimes of autonomy*. Suppose further that, in both scenarios, concerns with inequality or injustice have basically been addressed. But the social practices demand significantly more in the one scenario than in the other, in terms of autonomy competencies. This does bring with it greater vulnerability, even if measures are taken to eliminate the risks of dropping below certain thresholds of full social participation. But, at the same time, the more demanding path generates *richer* forms of autonomy, which can include the full range of skills and competences

from rational decision-making to less frequently emphasized autonomy skills of listening, openness to difference, and ungarded self-exploration.

In such a case, I wish to suggest, there are important questions to be asked by the members of this community, having to do with whether to and why encourage the development of those social practices (and institutions and cultures that support them) in which richer forms of autonomy can be realized. What those questions are, precisely, is an extremely complex issue, and my aim here is to identify the shape of this form of normative inquiry rather than answer or even formulate the questions. Debates of this sort will presumably take up fundamental value questions, such as the nature of human dignity, the value of solidarity and social inclusion, and the contribution that autonomy makes to human self-realization. One consideration, however, that seems undeniable brings me back to the point made at the end of section 2 about recognitional vulnerability to intersubjective critique. For, in light of that discussion, it seems that in addressing the question of whether, all else being equal, to pursue more demanding or less demanding regimes of autonomy, we ought to favor those paths that expand the scope of critical inquiry. That is, if the richer form of autonomy is richer specifically in its orientation to open, free, and ongoing critique, it ought to be preferred as better able to bring about the conditions for realizing autonomy in its fullest sense.

In striking these rather speculative concluding notes, I should hasten to emphasize that my main aim in this essay has simply been to offer a framework within which these questions can be articulated. For many of these issues come clearly into view only once one moves beyond an automatic opposition between autonomy and vulnerability. What I have tried to do here is to show how, given a certain intersubjectivist conception of autonomy, vulnerability and autonomy are not necessarily opposed but are sometimes actually entwined. Although many forms of vulnerability do threaten people's ability to lead their lives as their own, the development of autonomy involves being exposed to the possibility of misrecognition and of not securing uptake in autonomy-related social practices. Once this is acknowledged, a whole range of new questions come into view, having to do with what autonomy-related social practices to promote and why. These are complex and difficult questions, but they can be answered adequately only if they are posed at the appropriately fundamental level and without presupposing that promoting autonomy is always a matter of minimizing vulnerability of all sorts.

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Being in Time: Ethics and Temporal Vulnerability

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Our temporal position gives us power over past and future generations. We can thwart the interests of the dead and drastically affect the welfare of future people. An ethics that focuses on vulnerability ought to include vulnerabilities that arise from temporal position, but how should temporal vulnerability be understood? If the vulnerability of past and future generations comes from their position in time then we run into the problem of explaining how people who no longer exist or beings who do not yet have an identity can be vulnerable to harm. I argue that a diachronic view that focuses on intergenerational relationships and dependencies provides a better way of understanding temporal vulnerability. Present people have the power to affect the well being of future generations but are also dependent on their successors for the fulfillment of their lifetime transcending interests. The diachronic conception requires us to reflect on what each generation owes to its predecessors and successors, and I argue that a contractual approach to these intergenerational obligations is not only consistent with an ethics of vulnerability but also provides the best way of taking temporal vulnerabilities into account.

When we think of people who are extremely vulnerable, the examples most likely to come to mind are babies or young children—beings who are dependent on the care and decisions of others. But who can be more vulnerable than those who are not yet born? Robert Goodin (1985) points out that we enjoy *unilateral power* over the generations that succeed us: “In many respects they are completely dependent upon us for providing help or for averting harm” (p. 77). The power given to us by our position in time is not limited to our ability to affect future generations. The dead are also vulnerable to our decisions and actions. We can destroy their reputations, ignore their bequests or their desires concerning the disposal of their bodies, or break promises that we made to them, and there is nothing that they can do about it. It is true that we have no power to cause the dead to suffer; their situation is not the same as that

of future people. But their dependence on their survivors for the fulfilment of their reasonable requests predisposes us to think that this vulnerability also has moral significance.

The purpose of this chapter to explore what can be described as *temporal vulnerability*: the vulnerabilities that people possess in respect to their position in time and their relationship to preceding and succeeding generations. My aim is to explain what temporal vulnerability is and how it is related to vulnerabilities of other kinds. I argue that temporal vulnerability is best understood as the result of intergenerational dependency. I show how this understanding challenges common conceptions of vulnerability and explain how temporal vulnerability ought to be incorporated into an ethics of vulnerability.

1. Understanding Temporal Vulnerability

Past and future generations are temporally vulnerable. But temporal vulnerability is not confined to those who are not now in existence. It includes the vulnerability that the very young possess in respect to older generations and the very old in respect to those who are younger. There are two ways of viewing temporal vulnerability. The first conforms to the way that vulnerability is usually understood. Taking the present as our point of reference, we identify the source and causes of vulnerabilities that have to do with position in time. Individuals who are very old are vulnerable because of the decline of powers that age brings, the very young because they lack the ability to look after themselves. The people of the past are vulnerable because they are dead and unable to act to protect their interests, and yet-to-be-born individuals are vulnerable because they are not yet alive and are thus unable to influence decisions that will affect them. These individuals are vulnerable to people who are at the height of their temporal powers—those who make decisions and engage in activities that affect, or will affect, temporally vulnerable groups.¹ I will call this the synchronic view of temporal vulnerability.

The second way of viewing temporal vulnerability is to take a diachronic perspective: to regard time as a process with no fixed point of reference. The present is a continually changing location in a continuum that moves us inexorably into the future. People are born, grow up, grow old, and die; generations succeed each other. From a diachronic perspective a person has no fixed temporal address and thus what makes her vulnerable are not merely her present properties and her present relation to other generations but her being subject to the changes that time brings. The vulnerability of a young child does not merely have to do with her present dependence on the care of others. It also

¹ Temporal vulnerability could also include being subject to the unforeseeable events of the future: to fortune and the fickle finger of fate. But I confine myself here to vulnerabilities that are the result of relationships between the generations.

has to do with the way her well-being as an adult depends on what members of older generations do now and in the future. A person at the height of her temporal powers is nevertheless temporally vulnerable as a person who will age and die and whose concerns will thus be dependent on the actions of others. Temporal vulnerability belongs to the human condition, wherever in time individuals happen to be.

Which conception of being in time should be adopted by those who, like Goodin (1985), advocate an ethics of vulnerability? The obvious answer seems to be the synchronic conception. First of all, it clearly identifies those whom the ethics should address, namely, those who hold temporal power over people who are disadvantageously situated in respect to time. And second, the synchronic perspective seems better suited to the way we commonly understand the notion of vulnerability and apply it in ethical contexts.

Vulnerability means being under threat of harm (Goodin 1985, p. 110). In medical ethics and other areas where issues of vulnerability loom large, the practice is to identify people who, because of their properties or situation, are liable to be harmed by particular others in a given context. For example, those who have mental impairments or who are socially disadvantaged may be vulnerable to institutional pressures in contexts in which they are asked to give consent to medical procedures. Because of their disadvantages they may not get treatment that they need or they may be subjected to procedures that they are not in the position to refuse. Vulnerability, as Goodin (p. 112) points out, is a relational concept. We need to specify what makes a person vulnerable and to whom (or what) he or she is vulnerable. An ethics of vulnerability also requires us to determine who ought to take responsibility for removing or alleviating the vulnerability or, if this is not possible, to ensure that those who are vulnerable are not harmed.

The synchronic conception of being in time seems to have a ready answer to the questions that an ethics of vulnerability must ask. The very old and very young, the dead and future generations are disadvantaged in different ways, but the underlying source is their position in time. Temporal position makes them subject to the harm that can be done to them by those who are now in a temporally powerful position. Those who are in this advantageous position have a responsibility to ensure that temporally disadvantaged groups are not harmed. There are likely to be debates about how that responsibility is distributed among present people, but there is no doubt that the responsibility exists.

Nevertheless, if we examine these answers more closely, they begin to look more problematic. How does temporal position make individuals vulnerable? Why, in particular, are past and future generations so powerless? The only answer seems to be the fact that they do not exist in the present. The dead being dead are entirely unable to act in their own interest. Members of future generations do not yet exist and thus are forced to accept the conditions that we impose on them. But identifying nonexistence as the source of

their vulnerability leads to paradoxical and unacceptable consequences—consequences that force us to challenge the synchronic conception of temporal vulnerability and ideas about vulnerability that give rise to this conception. I will explain why this is so, first in respect to the dead and then in respect to those not yet born.

2. Death and Vulnerability

If the dead have no postmortem existence or if they are translated to a different realm (as many religions suppose), then nothing we can do will cause them to suffer. For this reason we might suppose that the dead are not vulnerable at all and are thus beyond the reach of an ethics of vulnerability. By not mentioning the dead as a vulnerable group, Goodin (1985) tacitly takes this position. However, other philosophers have pointed out that the dead are commonly regarded as vulnerable people who depend on their survivors to fulfil reasonable requests. If Bill's father asked to be buried next to his wife and Bill instead sells his corpse to a medical school then, says George Pitcher (1984, p. 183), Bill has harmed and wronged his father. Loren Lomasky (1987, p. 270) regards a confiscatory inheritance tax as "an especially cruel injury to the dead" because "the dead can no longer offer loved ones their advice, their encouragement, sympathy in times of hardship, and joy when things go well; all they can do is pass on worldly goods to intended beneficiaries."

Those who want to defend the common conviction that the dead are subject to such cruelty need to explain how the dead can be harmed—thus putting them within the scope of an ethics of vulnerability. Thomas Nagel (1979) argues that it makes sense to talk of harming someone even if she never suffers as the result of what we do.² Pitcher (1984) and Joel Feinberg (1984) make a distinction between a postmortem person, who is nothing but a corpse or heap of ashes, and an antemortem person—the person who she was during her life—and argue that we harm the dead by setting back the interests of antemortem persons. Wisniewski (2009) argues that Kantian respect for persons requires us to think of the dead as beings who can be harmed.

However, the idea that the dead are vulnerable to harm is controversial.³ We can harm or benefit someone without her experiencing harm, but can we harm someone who has no potential to have experiences? We can advance or set back interests that dead people *had* and events that happen after their death can change the accounts we give of their successes and failures. But do these

² Nagel (1979, p. 4) imagines a person who is ridiculed behind his back but never detects or is affected by the disrespect that others have toward him.

³ Critics of the thesis that the dead can be harmed include Lamont (1998), Callahan (1987), Partridge (1981), and Winter (2010).

acts really count as harming the dead? We ought to respect living persons because of their capacities or potentialities. But does this requirement apply to those who are not and will never be capable of exercising the capacities of persons? All attempts to include dead people in the category of persons who can be harmed run into metaphysical or conceptual difficulties. The intuitively plausible idea that the dead are an extremely vulnerable group of people who depend on us to protect them from harm turns out to be problematic. If we doubt our ability to harm dead people, gratitude or piety remain as plausible reasons for performing duties in respect to the dead, but these motivations do not belong to an ethics of vulnerability.

3. Vulnerability of the Unborn

Unborn generations are in a different position. There is no question that people of the future can be harmed by our present actions and policies. If, for example, we do nothing much to mitigate climate change, they will be the ones who suffer the worst effects. Their nonpresence means that they are powerless to represent their interests or defend themselves against the harm we can do to them. Relations between present and future generations are by their nature unequal, and for this reason an ethics of vulnerability seems more plausible than a contract theory as a justification for duties to future people. This is the opinion of Goodin (1985, p. 177): “The vulnerability of succeeding generations to our actions and choices seems to be the strongest basis for assigning to present ones strong responsibilities for providing for them.”

What is the weakness that makes future people vulnerable and thus so dependent on us? The answer, as we have seen, must be their nonpresence. Because they don’t yet exist, they can’t do anything to defend themselves. Even babies are not so powerless. However, as already mentioned, it seems odd to regard nonexistence as a source of vulnerability. In ordinary circumstances when we go about identifying vulnerable people we presuppose their existence. If we stick to this presupposition then future generations cannot be included in the scope of our concern for the vulnerable. This is implausible. After all, future generations *are* vulnerable to our actions. On the other hand, if we allow that nonexistence is a source of vulnerability then we are landed with a familiar set of problems having to do with existence and identity—problems that pose a serious challenge to the synchronic conception of temporal vulnerability and ideas about ethical responsibility that go with it.

One of these problems has to do with procreation. The very existence of future people, as well as the conditions they will experience, depends on what we do. If being dependent on others for a benefit makes a person vulnerable then depending on others to be brought into existence is something that can count as a vulnerability. And since existence is generally beneficial, then the

failure to bring someone into existence seems to count as a harm. An ethics of vulnerability is supposed to give relevant people a duty to eliminate or alleviate the conditions that make people vulnerable. But it is clear that an application of this ethics to procreation is nonsensical. The unborn are not waiting in the anteroom of existence for a chance to be born. And it is implausible to suppose that a person is doing harm by failing to have a child whenever she is in the position to make its existence good.

If we deal with this problem by ruling that the ethics of vulnerability should not be applied to procreation, then we ignore the intuitively plausible idea that parents have a duty of care to their future children. Prospective parents are fulfilling this duty when they make an effort to ensure that they are in a good position to raise a family before they attempt to conceive a child. If a woman who is taking a drug that could cause foetal deformities ignores the advice of her doctor to delay conception, it seems reasonable to accuse her of doing wrong.⁴ Her obligation to wait is surely something that ought to be encompassed by an ethics of vulnerability. But the question remains how we are to do so without paradoxical or implausible consequences.

The paradoxical consequences have to do with the fact that the unborn have as yet no identity as individuals. Suppose that we do nothing effective to halt or mitigate climate change. And suppose also that because of our inaction an irreversible train of events is set in motion that results, after 100 years have passed, in a world impoverished by environmental damage and social disruption. Since that disruption would have had a large effect on who is born, we can assume that the individuals who are in existence after the 100 years have passed will have different identities from the individuals that would have existed if we had acted more responsibly. Because of our behaviour these individuals suffer from many deprivations. But it seems that they cannot claim to have been harmed by our irresponsibility (at least so long as they find their lives worth living), since if we had acted differently they wouldn't have existed at all.⁵ The *nonidentity problem*, as this is sometimes called, creates an apparent contradiction for a conception of vulnerability that attempts to extend itself to unborn generations. Future generations are vulnerable to our actions. This seems an obvious basis for saying that we have duties to them. But if our activities, however damaging, result in the existence of individuals who cannot claim to be harmed by what we did, then how can we have a duty to them that derives from their vulnerability?

One proposal for dealing with this problem is to insist that our duties are not to future individuals but to future generations taken as a whole. If we do nothing effective about climate change we are abrogating our duty to the vulnerable by decreasing the total or average wellbeing of future populations.

⁴ Parfit (1976) discusses this example.

⁵ Schwartz (1978) and Parfit (1984) first brought the nonidentity problem to philosophic attention.

But this proposal faces well-known difficulties. It could be used to advocate the bringing into existence of a large number of people who find life barely worth living but whose total well-being is high. Or it could be used to advocate nonprocreation as a way of minimizing future harm (unless failure to procreate counts as a harm). But these paradoxical results are not the only problem with the synchronic understanding of vulnerability when it is applied to future people. What many people, particularly feminists, find attractive about an emphasis on vulnerability is its close relationship to an ethics of care. Care requires close attention to the needs and position of particular others. Seyla Benhabib (1987), for example, contrasts an ethics that is attentive to the needs of concrete individuals with an ethics that treats individuals as abstractions, and she argues that the former standpoint is necessary to put oneself imaginatively in the place of others as required by ethical decision-making. If the ethics of vulnerability similarly requires attention to the needs of concrete others, it is incompatible with an ethics in which individuals appear only as units of well-being. But this raises the question of how an ethics of vulnerability can encompass future people, who have no identity as concrete individuals.

There is a further problem for a conception of vulnerability when it is applied to future generations. Being vulnerable, as it is usually understood, is not merely a matter of being subject to physical or mental injury or exploitation. It also includes being subject to factors that prevent a person from having opportunities to enjoy things that we believe all members of our society ought to be able to enjoy. But this form of vulnerability is relative to social conditions. Being illiterate in a modern society makes a person vulnerable—not only because she is more likely to be exploited but also because she is deprived of opportunities that are supposed to be available to all. In a society where almost everyone is illiterate, being illiterate would not make a person especially vulnerable. Suppose, then, that we destroy natural resources to the extent that future generations have a much worse living standard than us but are still able to fulfil their basic needs. Individuals of the future will not have the same opportunities as we do to enjoy things we regard as good. On the other hand, they will not be deprived relative to their contemporaries. Nevertheless, most of us would judge that if we deprive future people of opportunities that we value we are doing them wrong. But how can this wrong be encompassed by an ethics of vulnerability?

4. From a Diachronic Perspective

In the last section I presented problems concerning vulnerability, as it is usually understood, and the ethics motivated by the existence of vulnerabilities. On one hand it seems obvious that past and future generations are vulnerable: that they depend on us to fulfil their legitimate interests and that their

vulnerability to our actions gives us responsibilities. But we run into difficulties when we consider more closely what makes them vulnerable and whether and how they can be harmed by our actions. These difficulties lead to the paradoxical conclusion that the notion of vulnerability—which at first seemed so appropriately applied to past and future people—does not answer to their situation. I will argue in what follows that this paradox results from a mistaken way of conceiving temporal vulnerability. A diachronic approach to being in time, and the conception of vulnerability that goes with it, will enable us to understand how an ethics of vulnerability can apply to past and future generations and what kind of ethics this will be.

The problem I have been discussing can be located in the synchronic view of temporal relations—the perspective that was motivated by common ideas about vulnerability. The synchronic view, by classifying people according to their relation to the present, encourages us to find the source of vulnerability of past and future people in their nonpresence or nonexistence. What else can explain their powerlessness? But this, as we have seen, leads to insuperable problems: in the case of the dead, because it is hard to understand how a non-existent person can be harmed and thus be a subject for an ethics of vulnerability; in the case of future generations, because the identities of unborn people are not only unknown but also are determined by our actions. Moreover, it is hard to understand how future generations, as people who inhabit a different temporal space, can be harmed by not having all the opportunities that are available in our temporal space.

My hypothesis is that a diachronic perspective provides a much more promising basis for understanding temporal vulnerability and how it can figure in an ethics of vulnerability. But taking this perspective requires that this ethics will have to be revised. Its focus on individuals, and their particular properties and interests, requires modification. Applied to past and future generations, an ethics of vulnerability must focus on relationships of dependence.⁶

When taking the diachronic perspective we see ourselves as beings who are moving through time with the generational dependencies that this entails. As members of a younger generation we depended on our predecessors for our ability to flourish as members of a family or society. We depend on our successors for fulfilling our desires and demands concerning events and states of affairs that will occur after we are dead. Members of younger generations depend on the care of older generations for their future as well as present ability to flourish, and what present generations do will affect the well-being of those who are born into our society in the future. The diachronic perspective encourages individuals to see themselves as participants in an intergenerational

⁶ Dodds in chapter 7 also makes the point that vulnerability can arise from the dependency of individuals on others. However, her focus is on dependencies that can be superseded or overcome. I argue that temporal dependencies of one kind or another are part of the human condition.

continuum in which each generation depends in various ways on its predecessors and successors—relationships and dependencies that change in the course of time.

The diachronic perspective identifies these intergenerational dependencies—and not nonexistence—as the source of vulnerability. Human existence in time gives rise to generational dependencies, and these result in temporal vulnerabilities of various kinds. Everyone belongs to relationships that make up the intergenerational continuum including present people at the height of their temporal powers. All of us were dependent on our generational predecessors and will depend on the actions of our generational successors. Intergenerational dependencies do not go all one way. We depend on our successors to fulfil our reasonable requests concerning our postmortem affairs, and they depend on us to ensure that they inherit suitable conditions for living decent lives.

Recognizing temporal dependencies requires that we reconceive the relationships that define vulnerability. In common applications of the term it is assumed that identifying the source of vulnerability—the properties of the individual or her environment that can make her vulnerable—and identifying who or what that person is vulnerable to are independent matters (Goodin 1985, p. 112). Who a person is vulnerable to, whether she is vulnerable to anyone, is a contingent matter depending on context, opportunity, and choice. But in the case of temporal vulnerabilities, the answers to the question of what creates the vulnerability and the question of who a person is vulnerable to are not independent. Existence in time means being in relations of generational dependence, and defining what this dependence is for an individual, given his temporal situation, also determines which generations he is vulnerable to. As we will see, identifying the person who is temporally vulnerable may also depend logically on the specification of a generational relationship.

Identifying the source of temporal vulnerability as generational dependence rather than nonexistence will enable us to overcome at least some of the problems of applying an ethics of vulnerability to past and future generations. Let us investigate how this can be done, starting with our relationship to past generations.

5. Intergenerational Relationships and the Dead

The problem, as we have seen, is as follows. Being in the scope of a conception of vulnerability seems to require being capable of being harmed. But despite the efforts of a number of philosophers it remains doubtful that the dead can be harmed. Where there is no possibility of harm, how can there be vulnerability? Nevertheless, it seems intuitively plausible to regard the dead as dependent on, and thus vulnerable to, the actions of the living.

The diachronic conception of temporal vulnerability motivates us to reflect on what each generation owes to its predecessors and successors. When thinking about duties to the dead, our attention shifts from the dead as a group who suffer from the disadvantage of nonexistence to a consideration of what people are owed by those who succeed them. We know from our own case that individuals have interests about events or states of affairs that will exist after they are dead. They may care about the future fate of their children, their posthumous reputation, the continuation of their projects, the survival of their community, the keeping of promises that were made to them, the preservation of a tradition, or how their body or their property will be disposed of. They depend on their successors to further these interests after they are dead. In some cases they may be morally entitled to demand that their successors do so. We think, for example, that it is generally legitimate for a person to demand of his survivors that his body be disposed of according to his wishes (which is why Bill in Pitcher's story should have done as his father asked). Of course, after a person is dead he will no longer care whether his desires are fulfilled. But the living recognize that they will depend on their successors for the fulfilment of *their* reasonable demands and thus have reason to care about, and maintain, a practice of fulfilling requests that the dead made or could legitimately have made.

This account translates the vulnerability of the dead into the vulnerability of all individuals, including the living, who recognize that they are dependent for the fulfilment of their *lifetime-transcending interests* on the actions of their successors. If we fear that our successors will not fulfil our legitimate demands—if we think that they will not keep the promises they made to us, for example—then interests that may be of great importance to us are set back. So if someone does not fulfil an undertaking that he made to a person now dead he harms all of those who depend on an intergenerational practice. The possibility of such violations highlights the vulnerability of members of each generation to its successors.

Two principal objections to the ethics arise from this conception of temporal vulnerability. The first is that it depends on the idea of a contract between the generations. We are supposed to fulfil legitimate requests of our predecessors in the framework of a practice that requires our successors to fulfil ours. But a contractual basis for obligation is problematic in cases of unequal relationships. For this reason, Goodin (1985) and many feminists argue against contractual accounts of ethical or political obligations. An ethics of vulnerability is supposed to be an ethics that requires people to respond to the needs of others or an ethics of care that gives individuals responsibilities to dependents. The second objection is voiced by Feinberg (1984, p. 95) to a similar idea of intergenerational contract: "It is absurd to think that once the promisee has died, the status of a broken promise made to him while he was alive suddenly ceased to be that of a serious injustice to a victim, and becomes instead a mere diffuse public harm." When Bill violates his father's wishes by selling his body

to a medical school, we want to say that the wrong he does is to his father and not, at least not primarily, to people who are depending on the continuity of an intergenerational practice.

The objection that the contractual account is counterintuitive is best answered by considering why we are inclined to think that acting against the interests of those who cannot suffer harm is nevertheless a harm done to *them*. This inclination is manifested not merely in respect to the dead but also in cases where a person is in a permanent vegetative state. If she has made a living will that specifies that she should be allowed to die if she suffers that fate, or if what we know about her indicates that this would be her preference, then it is reasonable to think that keeping her alive harms her—even though she is beyond any experience of harm. Ronald Dworkin (1993, p. 205) explains why we have duties to people that extend beyond their conscious existence by pointing out that individuals have interests about how their life should go, including desires about how it should end.

This way of thinking about persons and their interests makes it plausible to insist that the dead can be harmed. It depends on the idea that lifetime-transcending interests are not merely interests that people happen to have about events that may happen after their death. They are, or could be, interests that are central to a person's conception of herself and to the meaning that she is giving to her life. If we keep her alive when we know that she is the kind of person who would have wanted a dignified death, then we are doing her harm by acting against a desire that was important to her conception of herself. If we maliciously attack a person's posthumous reputation, thus destroying his reputation in the eyes of those he respected, causing distress to the people he cared about, or undermining the future of his projects, we are harming what was important to the meaning of his life. It is natural and reasonable to describe this injury as a harm to him. The essence of a person, so to speak, transcends her existence. We are predisposed to think this way by the diachronic perspective that views persons as essentially temporal: understanding themselves and obtaining a meaning for their lives in relation to the past and the future, including the past and future beyond their lifetimes.

The contractual approach can thus answer Feinberg's objection and also show how duties to the dead can be encompassed in an ethics of vulnerability by means of a conception of harm that includes the setting back of important lifetime-transcending interests. However, the question remains whether the idea of contract is compatible with an ethics that stresses dependence and vulnerability. Goodin (1985) thinks that a contractual approach is mistaken because it requires a voluntary acceptance of responsibilities—something that is not possible in many cases of vulnerability and dependency, including intergenerational ones. A hypothetical contract, like that of Rawls, does not depend on voluntary consent, but feminists have nevertheless criticised Rawls and other contract theorists for not sufficiently taking vulnerability into account.

Eva Feder Kittay (1999, p. 88) takes Rawls to task for his adoption of the classical assumption that the contractors are fully rational citizens who are able to participate in their society and interact on equal terms with each other. This makes no allowance, she says, for those whose dependencies do not allow them to participate, nor does it adequately encompass those who are responsible for care and must concern themselves with the interests of those who depend on them. Contractors behind the veil of ignorance are supposed to know relevant facts about social life, so it is possible that they will take into account the needs of dependents and carers: that they might consider the possibility that they will turn out to be one or the other. But they might not. Kittay's basic complaint is that dependency in the context of contract theory will be treated, at best, as a marginal matter and thus will fail to adequately address problems that are central to the lives of many people—especially women (p. 86). The same complaint can be made about intergenerational dependencies. Rawls, it is true, makes an effort to ensure that his theory of justice encompasses future (but not past) generations. But contract theory—depending as it does on agreements made by contractors who are assumed to be existing members of a society—is bound to treat intergenerational justice as a side issue: as a problematic addition to a theory that focuses on relationships between contemporaries.

However, not all contractual approaches suffer from such deficiencies. Thomas Scanlon (1998) presents a contractual approach to moral obligation that avoids the problems discussed by Kittay and others and is capable of providing a basis for duties to the vulnerable. Scanlon holds that our duties to others result from acknowledging that they are entitled to make claims on us, or have claims made on their behalf, by an appeal to principles that no one can reasonably reject (p. 4). The contractual aspect of Scanlon's approach is embodied in the idea that we ought to accept principles that we have good reason to think that no one can reasonably reject and that the existence of such principles is a justification for moral claims, obligations, and responsibilities. What makes Scanlon's contract theory different from that of Rawls and others who appeal to the classic idea of a social contract is that the reasoning that determines what responsibilities we ought to accept must be moral reasoning. We have to take into account the views and situation of others when we try to determine what principles we and these others cannot reasonably reject. This means that we are obliged to take into account the situation and point of view of vulnerable people and those who care for them in reasoning about our individual and collective responsibilities. It also means that we are obliged to take into account interests of people of all generations.

The reasoning that determines our obligations to the dead can be best understood in a Scanlonian framework. Lifetime-transcending interests can be extremely important to the way that people find meaning in their lives and understand themselves. But they are also what make them vulnerable to the actions of future generations. Therefore, it is reasonable to suppose that they

can sometimes make demands of their successors, justifying them by appealing to principles that, no one, including these successors, should find reason to reject. For example, the importance to most individuals of their posthumous reputation makes it plausible to suppose that a person can demand that her successors protect her reputation from malicious lies on the basis of a principle that these successors cannot reasonably reject. In general, our beliefs about our intergenerational obligations depend on reasoning about what people of relevant generations cannot reasonably reject. What future people will reject or accept is, of course, unknown, but this fact does not preclude us from accepting the consequences of our own moral reasoning about what the contract between generations requires.

6. Future Generations and the Generational Contract

Past generations are a problem for an ethics of vulnerability because dead people are incapable of experiencing harm. Unborn generations are a problem because they have as yet no identity as individuals, and the identity that they will have depends on us. Nevertheless, Scanlon's (1998) contractualism suggests an approach to generational responsibilities that is able to overcome identity problems and can also be a basis for an ethics of vulnerability that encompasses past and future generations.

Using Scanlon's idea that claims depend on an appeal to a principle that no one can reasonably reject, Rahul Kumar (2003) presents a plausible case for saying that we can have duties to people whose existence is contingent on our actions. Legitimate expectations, he argues, can arise from a status that individuals possess simply because they have a position in a relationship. To determine whether the expectation is fulfilled it is not necessary to compare the present position of a person with the position he would be in if the failure had not occurred. It is enough to establish whether the agent responsible for fulfilling the expectation has in fact fulfilled it. It is a legitimate moral expectation, Kumar points out (p. 116), that those responsible for a child's welfare should not let it suffer a serious harm or disability when this can be prevented. A caretaker has this obligation to anyone who is or will be her child. The duty applies to a type, characterised simply as *child of X*, but it attributes entitlements to the individual who turns out to be an instance of this type. So if the caretaker fails to fulfil her responsibility, her child, whoever he is, has not received his entitlement and can claim to have been wronged. How the child came into existence is irrelevant. Suppose that prospective parents have not taken sufficient care to ensure that their future children will have a good start in life. A child who is born to them can claim that his parents have wronged him by not fulfilling their duties as caretakers even if he knows that he probably would never have existed if they had fulfilled these duties.

This idea of contractual obligations is applicable to intergenerational relationships. Within the framework of a diachronic view of temporal vulnerability it is plausible to suppose all generations have reason not to reject principles that require them to be concerned about the welfare of their successors. These principles give us duties to our successors because it is reasonable to believe that each generation has caretaking responsibilities in respect to its successors. Who unborn individuals turn out to be, and how they come into existence, is irrelevant as far as these responsibilities are concerned. Though we cannot specify who they are, we know that future people will be vulnerable to decisions that we presently make, and if we destroy the environment or run down the infrastructure of our society we will fail to fulfil the obligations we have to them as our successors.

The contractual conception of obligations to future generations can thus be understood as consistent with an ethics of vulnerability. It provides a way of interpreting the common idea that the vulnerability of future people to our present activities gives us duties of care. It is true that people of future generations cannot be treated as concrete individuals. We can specify who they are only by means of an abstraction: as our successors. On the other, hand, the description "*our* successors" binds them to us in a way that is specific.

This specification enables us to meet the objection that we have no obligation to future people beyond ensuring that their life is worth living and thus do not have to provide them with all the opportunities we value. As our successors it is reasonable to assume that they will have a claim on us to provide them with those things that we have reason to believe people of every future generation ought to enjoy. Whether future people do value these things is up to them, but when we make moral judgments about our obligations to future generations we must reason as best we can about what an intergenerational contract requires of us. If we think that there are things of value that every future generation ought to be able to enjoy, then we have an obligation to ensure that our successors will have them. On the other hand, a conception of obligation based on relationships does not make nonexistence into a weakness or vulnerability that gives rise to duties of procreation. Prospective parents have an obligation to ensure that their children, if they decide to have them, will have a good start in life. But this duty of care does not give them an obligation to have children. Whether an obligation to procreate exists depends on whether the importance to older people of the survival of their community or other things that they value can give them a moral entitlement to demand that younger people have children and whether this entitlement, if it exists, outweighs the entitlement of the latter to make free decisions about procreation. The satisfaction of either of these conditions is doubtful.

The contractual approach gives us obligations to our successors, but questions arise about who these successors are. Are they merely the people in our

nation? Those who count as our immediate descendants? Rawls's contractual account of intergenerational justice confines itself primarily to those who will be our co-nationals, and he makes us responsible for the well-being of only the next few generations. But if intergenerational obligations are limited in these ways, then the contractual approach seems to provide an inadequate conception of duties to future generations. Our actions and policies can have an effect on generations who will exist in the far future or in other countries. These people are also vulnerable to what we now do.

However, Scanlon's (1998) conception of a contract is not limited in these ways. Since we are required to consider the effects of our actions from a moral point of view, we must adopt an appropriate conception of who counts as our successors. The generational continuum has no definite end, and therefore a moral principle that governs our intergenerational relationships has no inbuilt temporal boundaries. It is true that our duties to our more immediate successors are likely to be more demanding than our duties to remote future generations. What we do will have a greater effect on the former. But to the extent that we have the power to harm people of more distant generations, we also have an obligation to take them into account. By the same reasoning we must also consider future people in other countries. The interdependencies of people of the world—the existence of effects like global warming, for example—mean that all future people count as our successors for the purpose of determining moral duties. We may have somewhat different duties to those who are our national successors—to pass on things that we value as members of a community—but we have duties to future members of other nations in so far as our activities will affect them.

7. Conclusion

Past and future generations are vulnerable to our activities. This is a commonsense proposition, and it is also a matter of commonsense to believe that their vulnerability gives us obligations. However, the nonpresence of past and future people makes it difficult to understand how existing accounts of vulnerability can apply to them or how they can be encompassed by an ethics of vulnerability. What starts out as a matter of commonsense seems, under closer examination, to be confused and mistaken. I have argued that at the heart of the problem is a notion of vulnerability wedded to a synchronic view of what makes individuals vulnerable. I have explained why a diachronic conception of temporal vulnerability provides a superior account of the source and cause of the vulnerability of past and future generations, and I have argued that a contractual approach to intergenerational responsibilities provides the ethics best suited to this conception.

The conception of vulnerability that I have defended and the contractual account of our moral responsibilities to those who are temporally vulnerable apply not only to past and future generations. Children and the elderly are not merely people who happen to be vulnerable because of the weaknesses or incapacities of youth and old age. Their vulnerabilities are inseparable from human existence in time, and an ethics capable of dealing with them must assign responsibilities to members of each generational cohort for the sake of those earlier or later in time. The young of each generation must be properly cared for and educated and the elderly given the support that they need. Arrangements must be made and institutions established and maintained to ensure that each generation is able to fulfil its responsibilities as participants in an intergenerational continuum. A proper conception of temporal vulnerability thus broadens our understanding of what vulnerability is and how we ought to respond to it.

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{ PART II }

Vulnerability, Dependency, and Care

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Dependence, Care, and Vulnerability

Susan Dodds

The concepts of dependence, vulnerability, and care are central to feminist ethics. However, the distinctions between these concepts are rarely spelled out. Similarly, while some feminists ground moral duties of care in our responses to dependent infants or vulnerable others, the nature of these responsibilities bears further analysis. In this chapter I provide a detailed analysis of the relations amongst vulnerability, dependence, and care. Engaging with the work of Margaret Urban Walker and Eva Feder Kittay, I then investigate the complexities associated with the social assignment of responsibility for vulnerability. I demonstrate how some social and legal responses to dependence can generate further dependency and pathogenic forms of vulnerability, while others can promote resilience, autonomy, and recognition.

The idealized conception of the liberal person as an independent, autonomous agent, capable of making and acting on contractual promises, has been criticized for failing to attend appropriately to human vulnerability. In particular, feminist and communitarian critics (e.g., Sandel 1981; Taylor 1989; Baier 1994; Kittay 1997; Fineman 2004) have argued that this conception of the person fails to acknowledge the inevitable primary dependency on others that is a condition of embodied human existence and discounts the developmental, relational, and social constitution of human selves. While these critics of liberalism disagree about how our embodiment, relationality, and social constitution should be understood, they do agree that any adequate theory of justice and obligation must attend to these aspects of human existence and their attendant vulnerabilities.

Feminist contributions to this critique have focused on the ways that consideration of vulnerability and its attendant responsibilities are excluded from the political arena. Margaret Urban Walker (1998) cautions against “naturalizing” moral responsibility for responding to vulnerability, calling attention to the ways social practices construct and assign relations of responsibility. Eva Feder Kittay’s (1999) *dependency critique* highlights the injustices that flow

from failing to take the inevitable human dependency on others for care into account in theories of justice and social policy. These two approaches provide important theoretical resources for understanding vulnerability, dependence, and care. Building on these approaches, this chapter has four aims. First, I provide a detailed analysis of the relationships between vulnerability, dependence, and care. Second, I extend Walker's analysis of the complexities associated with the social assignment of responsibility for vulnerability, drawing on the notion of pathogenic vulnerability.¹ Third, I argue, contra Kittay, that the concept of dependent persons is insufficient to the task of responding appropriately to vulnerability, because it does not protect against pathogenic forms of vulnerability. Finally, I demonstrate how some kinds of social and legal responses to dependency can generate pathogenic vulnerability, while others can promote resilience, autonomy, and recognition.

On my account dependency is a specific form of vulnerability, and the care provided to meet the needs, and support the autonomy of dependents (dependency-care), is a response to this vulnerability. However, while good care mitigates further vulnerabilities or dependency, unjust social institutions and structures as well as dysfunctional relationships can instead create additional pathogenic vulnerabilities for those who are dependent as well as those who provide care for dependents.

1. The Relationships between Dependency and Vulnerability

All humans are dependent at some point on their lives: certainly in infancy; often in older age, illness, or when affected by a disability; or in situations where a person's resources and social environment are not sufficient to meet her needs and secure her autonomy. Human vulnerability and dependence are ontological conditions of our humanity as embodied beings (Turner 2006; Fineman 2008). Authors who write in this area use the language of human vulnerability as well as dependence, but it is not always clear how, or to what degree, these concepts are related.²

Human vulnerability arises from our embodiment, which exposes us to the risk of suffering harm or injury or of failing to flourish or develop our capacities in ways that may be minor or devastating. Vulnerability is a disposition of embodied, social, and relational beings for whom the meeting of needs and the development of capabilities and autonomy involve complex interpersonal and social interactions over time. Dependence is one form of vulnerability. Dependence is vulnerability that requires the support of a specific person (or

¹ For further discussion of the concept of pathogenic vulnerability see Rogers, Mackenzie, and Dodds (2012), the Introduction to this volume, and chapter 1 by Mackenzie.

² See the discussion of the literature on vulnerability in the Introduction.

people)—that is, care. To be dependent is to be in circumstances in which one must rely on the care of other individuals to access, provide or secure (one or more of) one's needs, and promote and support the development of one's autonomy or agency. Thus, while we are all always vulnerable to some degree, we are not always dependent. In this way dependence can be contrasted with those vulnerabilities that do not involve immediate reliance on specific individuals, for example those vulnerabilities that can be addressed by generalized public health and safety measures.³

The distinction between vulnerability and dependence can be further refined by drawing on the distinction between inherent and situational vulnerabilities outlined in the Introduction. Both vulnerability and dependence are inherent features of human existence arising from our embodiment, neediness, and social and affective natures. Where our inherent vulnerabilities are such that they require immediate care or direct assistance from specific individuals, then these are *dependencies*. Our age, gender, health, abilities, resilience, and the range of support available to us will shape the circumstances and ways we experience vulnerability as dependence.

Examples may help illustrate this point. All people are inherently *vulnerable* to ageing; once people get beyond middle age, their bodies are generally less resilient. However, not all octogenarians are *dependent* on others for their care. Whether or not an older person becomes dependent will depend on a range of inherent and situational factors, such as their genetic makeup, their socioeconomic status, and the social and welfare supports available to them. Similarly, a person may be situationally *vulnerable* to homelessness, for example, if she has been living alone in a rental accommodation, becomes unemployed, and does not have the income to pay her rent. This situational vulnerability may be addressed through institutional or social structures such as income protection insurance, access to public housing, or other social support. Whether she will experience *dependence* on particular others for housing will turn on whether or not she can effectively claim entitlement to those institutional protections. Where she lacks the social standing that may afford her this assistance, for example she if is deemed ineligible for social support, then she may be dependent on specific individuals to provide her with housing or to argue on her behalf for access to social housing protection.

Dependence, then, is a specific form of vulnerability.⁴ The particular vulnerabilities associated with dependency are such that they are best met or supported by a specific person (or small number of people) due to the intimacy,

³ A person who is not dependent (in the sense that it is being used here) should not be understood as enjoying complete *independence* from all others; rather, she is not directly dependent on specific others for her care and to meet her immediate needs.

⁴ Thus, while dependence is a particular form of vulnerability, social institutional supports can alleviate vulnerabilities that might otherwise generate dependence. (I am grateful to Margaret Lange for helping me to be clearer about this point.)

immediacy or subtlety of the needs, support, and protections that are involved. The provision of personalized, reliable, and attentive care is particularly important in responding appropriately to those whose dependency is extensive (covering a wide scope of vulnerabilities) or enduring or intimate. Nonetheless, the line between dependence and nondependent vulnerabilities is not clear-cut. While dependence entails close personal care, other vulnerabilities may be adequately addressed through provision of less personal care or institutional practices that support people's needs and promote their autonomy.

1.1. THE INEVITABLE AND COMPREHENSIVE DEPENDENCE OF THE INFANT

The archetype of human dependency is the inevitable dependence of the very young child. The near complete dependency of infants and young children, while varying between individuals, over time, and in different circumstances, relates to five domains—physical, cognitive, emotional, social, and legal—where infants' capacities or status are insufficient to realize their needs. In addition, in part because of these undeveloped capacities or lack of status, infants and young children are dependent as a result of their lack of autonomy. This then creates a sixth domain of dependency. Infants and young children are dependent on others to assist them over time to develop autonomy competencies so that they may become (to the extent possible) autonomous agents.⁵ Although the needs of dependent infants and young children can be met by more than one person, the articulation, integration, and management of these various forms of support require individualized personal attention.

As vulnerable embodied humans, infants are inherently dependent. The absence of an attentive carer will mean that the physical vulnerabilities of infants will become acute—if these are not met they may suffer extreme privation or die (Fineman 2000). This is dependence in the *physical* domain. Infants also lack the range of cognitive capacities required to make sense of the world around them and to know (in any but the most basic sense) what their needs are and how these can be secured—meaning that they are dependent in the *cognitive* domain. Further, infants and young children need trustworthy and stable loving relationships to develop their own emotional repertoires. Thus, they are dependent in the *emotional* domain.

Due to their underdeveloped physical, cognitive, and emotional capacities, infants are not able to assess what they really want, need, or value. They lack the range of skills of self-discovery, self-definition, and self-direction

⁵ I acknowledge Kittay's insistence that the moral basis for care for dependents must not assume that all dependents can develop autonomy or agency. My claim is that in very many cases *one* important aim of care is to support the dependent's development of autonomy and agency.

that comprise autonomy competence (Meyers 1989) and therefore are dependent in the domain of *autonomy*. The development of autonomy competence is importantly intersubjective and is fostered through relationships of trust, respect, and recognition; thus, it is affected by the presence or absence of competent, ongoing, and personal care.⁶

Because of the link between the rights and protections afforded citizens and their autonomy, infants' and young children's undeveloped capacities for autonomy also make them vulnerable in relation to social and legal practices, processes, and institutions. They lack the social standing to be recognized and to be able to demand recognition of their needs and are therefore dependent (in the *social* domain) on others to interpret their needs, assess their entitlements, and articulate their claims. Infants and young children are also dependent in the *legal* domain on others who have the status to represent and defend their legal status and claims. Their dependence in these domains is more likely to become visible in cases where social and legal practices assigning responsibility for their care fail (e.g., when a child is orphaned, neglected, or in the situation of civil war).⁷

While the comprehensive dependency of infants and young children has been understood as the paradigm of dependency, it is important to recognize that, over time and through the course of their development, infants and young children who are supported by the care of others will, in many cases, develop a range of capacities such that (in most or many domains) they are no longer dependent.

Here I have sought to spell out the different ways the vulnerabilities of infants and young children make them dependent on others for care. In the following, I consider cases where dependence occurs in different combinations of these domains to show that dependence may be partial and to more clearly explain the ways institutional and social organization may mitigate or exacerbate vulnerabilities and hence dependence in these domains.

1.2. INTERACTIONS BETWEEN PARTIAL DEPENDENCY AND VULNERABILITY

In contrast to the sweeping dependence of infants across all six domains, some individuals' dependency is more limited in scope or degree. The interrelationships between dependency and vulnerability are clearer if we shift focus from the comprehensive dependency of the infant to the partial dependency that individuals may experience as a result of limitations in specific domains.

⁶ For discussion of children's vulnerability in cases of emotional neglect, see chapter 11 by Mullin.

⁷ See also chapter 9 by Friedman for a discussion of the assignment of responsibility to protect children in the context of domestic violence.

For example, social and legal arrangements shape the dependence of a person whose physical mobility is limited, although her other capacities are well developed. Thus, while some physical disabilities may mean a person is dependent in the *physical* domain on others to secure a wide range of her needs and to foster her capacities, there is considerable variation in the level of dependence experienced by people with physical impairments. Someone who uses a wheelchair may or may not be able to live independently within the community depending on her range of abilities (physical, emotional, cognitive—and her autonomy competencies) and factors external to her in the social and legal domains, such as the physical characteristics of the built environment, discriminatory employment practices, the availability of resources to assist her employer to reduce arbitrary impediments to her employment, and the availability of support at times of specific need.

This example points to the relationship between situational vulnerability and dependence. A person whose capacity for self-care is affected by specific impairments may be *vulnerable* in more ways than others who lack similar impairments (all other things being equal). However, he may or may not be more *dependent* on others for his care, contingent upon factors such as the social and legal arrangements shaping his access to paid employment, assistive devices, workplace design, and so on. An adult who experiences mobility impairment is situationally vulnerable because of his mobility limitations.⁸ He may not be dependent, however, if his needs can be met without relying on the specific assistance of another person. For example, his workplace and home may have been designed or modified so that he can live and work independently, and the public transport system that he uses may allow him to move readily between work, home, and his other activities.

In the domain of cognitive dependence, cognitive impairment is a matter of degree, and an individual who has a cognitive impairment, while inherently vulnerable, may or may not require particular care by another on whom she would be dependent. Protections designed to assist all members of a community, for example by providing vital information clearly and not presuming a high level of literacy, can simultaneously reduce the incidence of dependency in the *cognitive* domain as well as in social domains (e.g., where public education is poor or where migrants lack access to language and literacy classes in their new countries). Similarly, appropriate institutional support for individual decision-making (e.g., in relation to finances or health care) can also support those with limited cognitive capacities to meet their needs without relying on

⁸ See also chapter 8 by Scully for a more detailed discussion of the ways some physical and cognitive impairments may be identified as signaling a *disability* that makes the individuals especially vulnerable while other impairments are taken as “permitted” vulnerabilities that are accommodated within social practices.

the care of others. Nonetheless, significant cognitive disabilities (as with some physical disabilities) may generate dependencies that cannot be avoided or reduced by structural or institutional interventions.⁹

Some people will experience persistent dependence that cannot be substantively mitigated without provision of care by others. For this reason Kittay (2011) argues that approaches to disability that extol independence and denigrate dependence are problematic (p. 51).¹⁰ It is important for my argument to be clear on this matter. Dependency is an inherent feature of human life, but it is, for many people, episodic during a lifetime. However, some people's lives are characterized by significant dependence across a wide range of domains, no matter how well others may support the development and exercise of their capacities. My aim in seeking to clarify the relationships between dependency, care, and vulnerability is not to seek to eradicate dependence in all cases; rather, it is to provide a basis for understanding what individual, social, and institutional responses may be available and appropriate responses to specific vulnerabilities.

Mental illnesses pose a variety of limitations in the *emotional* domain that can lead to dependency. For example, severe anxiety disorders or social phobias may effectively paralyze a person's capacity to function in many work contexts or even to undertake routine daily activities that require them to leave the house. Not being able to work may mean that people with these conditions are dependent on others for financial support as well as for assistance with everyday living, such as going shopping to buy groceries. However, not all phobias are this severe and some people's anxiety can be managed through treatment. Social arrangements, such as the availability of work that can be undertaken at home and online, and appropriate supportive networks can alleviate the isolation and dependency that often accompanies social phobias or other anxiety disorders.

Limitations in the *social* and *legal* domains may mean that individuals experience further forms of dependence. For example, a person's legal status may change from his being legally dependent on his parent or guardian to becoming legally independent at varying ages, depending on the laws of the relevant jurisdiction (absent limitations or incapacities in other domains). As a result, his dependence on others in relation to legal and political protections

⁹ Structural or institutional interventions may mitigate the impact of dependency in other ways, such as by reducing the stigmatization of the person with the cognitive impairment or providing financial support for her carers with subsequent improvement in the quality of the care she receives. Nonetheless, as Eva Kittay (2011) writes in relation to her daughter's disability and dependency: "For persons with severe intellectual disabilities, such as my daughter Sesha, no accommodations, antidiscrimination laws, or guarantees of equal opportunity can make her self supporting and independent" (p. 56).

¹⁰ She also argues that approaches that extol independence fail to recognize the moral value of giving and receiving care.

and permissions changes with his age and jurisdiction. The young boy who is legally dependent relies on an adult to speak on his behalf or to make representations and claims on his behalf. As he becomes older he may become able to enter into legal undertakings (e.g., making a contract) and to make claims against others or the state, in virtue of his civil status.

However, in some countries currently, and in many countries historically, a young woman will never gain legal independence from another's authority because these jurisdictions do not recognize women as having full citizenship status. Where that legal dependency is supported by social systems that exclude women from access to the means of securing a livelihood or living safely without male protection, those women are both socially and legally dependent on their fathers, husbands, or male guardians to access legal and civic protections and rights as well as protection of personal security and the means of subsistence. Where women (or members of other social groups who are otherwise able to exercise autonomy, such as refugees) lack the recognition and protection afforded full citizens, they are made more vulnerable to harms such as physical violence, arbitrary detention, exploitation, and psychological abuse. Women's dependency in these circumstances may also frustrate the development of their capacities for autonomy (e.g., if they are denied access to education). The dependence of these women arises from the withholding of legal status in that jurisdiction. It is an example of pathogenic vulnerability, which I discuss next.

To summarize my account of the relationship between dependency and vulnerability: human vulnerability arises from our embodiment and the risk of harm or failure to flourish that follow from that embodiment. Vulnerability may be exacerbated or mitigated by a range of factors, including properties of our natural or constructed physical environment, social and legal institutions and arrangements, our individual knowledge, capacities and skills, and the actions of other agents in the world. Dependency captures those instances of vulnerability where a person relies on care: that is, the support of one or more specific others to realize the dependent person's needs or to promote, develop, and exercise her capacities and autonomy. On my account there are six domains of dependency. Five of these relate to capacities or status (physical, cognitive, emotional, social, and legal), the absence or impairment of which may generate dependence on another. The sixth domain of dependence arises from the complex relationship between dependence on others and the development of autonomy. When people provide care for their dependents we can see their actions as an ethical response to the recognition of dependency. This then raises two further questions, which I take up in the following sections: Who is responsible for responding to dependency? And what (individual or collective) obligations do we have to the vulnerable?

2. The Interconnections between Vulnerability and Responsibility

In his book *Protecting the Vulnerable*, Robert Goodin (1985) identifies the central premise of his argument in the following terms: “It is dependency and vulnerability rather than voluntary acts of will which give rise to . . . our most fundamental moral duties” (p. 34). For Goodin, vulnerability is relational: one is vulnerable to particular agents with respect to particular sorts of threats to one’s interests (p. 112). If my relationship to you is such that I am in a position to threaten your interests, then I have a special obligation to protect you from those harms—to care for you. This idea is captured by Goodin’s principle of protecting the vulnerable (PPV)—we each have special obligations to protect the interests of those who are particularly vulnerable to our actions and choices. For Goodin, recognition of vulnerability enables ready identification of both the responsibilities to protect the vulnerable and the individuals who bear those responsibilities.¹¹

Margaret Urban Walker (1998) argues that the relationship between vulnerability and responsibility is more complex than Goodin’s (1985) account suggests. For Goodin the relationship is one-way: vulnerability generates responsibility. For Walker, the ways societies assign responsibility for care can itself generate vulnerabilities. The relationship between vulnerability and responsibility is thus two-way (Walker 1998, pp. 82–90). Walker’s critique of Goodin aims to show that the identification of vulnerabilities is inextricably bound up with practices and conventions of attributing responsibility.

In this section, I consider Goodin’s (1985) argument for deriving moral responsibility from vulnerability and Walker’s (1998) response to that attempt. I argue that Walker’s critique of Goodin helps to show how the assignment of responsibility for responding to dependence may actually create new, pathogenic, vulnerabilities. I agree with Walker’s critique of Goodin but argue that a more extensive account of the relationships among dependency, vulnerability, and responsibility for care is needed to understand fully the ways in which attributions of responsibility arising from vulnerability generate further vulnerabilities for the person taken to be responsible as well as for the vulnerable person.

¹¹ Goodin’s conception of vulnerability is narrower than the conception I have described in the previous section. For Goodin, vulnerability is to be understood in terms of *one person’s interests being vulnerable to another person’s actions or choices*. At the same time, his account focuses on obligations to protect the interests of the vulnerable from harm rather than the obligation to foster resilience and autonomy in those who would otherwise be vulnerable. For further discussion, see the Introduction to this volume.

2.1. CHARTING RESPONSIBILITIES FOR PROTECTING THE VULNERABLE

There are three parts to Walker's (1998) critique of Goodin (1985). First she claims that Goodin's PPV cannot on its own provide the basis for a generalized obligation to protect the vulnerable. Second, she argues that many responsibilities toward the vulnerable are social artifacts. These also generate further vulnerabilities among dependents. Third, she argues against Goodin's emphasis on consequentialist considerations in assessing protection of the vulnerable. While I agree with Walker on the third point, I focus on the first two in this chapter.

Walker (1998) distinguishes what she calls *vulnerability-in-principle* from *dependency-in-fact*. Dependency-in-fact occurs when a vulnerable person is in a special relationship with another (e.g., as a person in the care of a guardian), which makes the vulnerable person reliant on the other party to the relationship to attend to their needs or interests. Vulnerability-in-principle captures the idea that people have important needs and interests and that, at any given time, many people in the world "are exposed to threats to important needs or interests, and some among us could individually or together relieve these threats by some practically imaginable course of action" (p. 83). Anyone who has significant needs or interests open to aid or harm by one or more others is vulnerable (in principle) to others; on Goodin's (1985) approach "anyone who (possibly) could do something to help" is responsible for protecting those who are vulnerable from harm to their interests. In principle, then, responsibility for protecting vulnerable people from harm does not rest exclusively with those who are in special relationships (parents, guardians, family, friends, one's clinician or teacher, or members of one's club or association), although these people may be, contingently, in a better position to offer that assistance. Rather, the responsibility (in principle) rests with *anyone* in a position to assist vulnerable people whose significant interests they can affect.

Walker (1998) argues that vulnerability-in-principle is not sufficient to do the normative work required of the PPV. It cannot explain how abstract vulnerability-in-principle generates obligations on specific people to protect particular vulnerable others. In fact, according to Walker, Goodin (1985) conflates vulnerability-in-principle with concrete dependency-in-fact. His argument relies on examples where existing relationships or circumstances of dependence already do the work of identifying the specific responsibilities owed to particular vulnerable individuals. In other words, Goodin's examples beg the question they seek to answer.

Walker (1998) claims that the examples Goodin (1985) uses that make PPV most compelling, like the case of parental responsibility for children or of someone who has promised to assist another, are examples of dependency-in-fact. These cases, while not voluntaristic, do arise from special relationships

or circumstances of dependency. The vulnerable person is dependent on an identifiable person (or persons) to realize or protect her immediate needs or important interests. These cases cannot be readily generalized or extended to identify specific agents who have responsibility for “stepping up” to protect vulnerable strangers because those strangers are unlikely to be vulnerable to the agents in the requisite manner. Thus, the relevant notion of vulnerability that Goodin relies on to do the moral “work” of assigning responsibility already assumes the actual dependency of the vulnerable person on the responsible agent (Walker 1998, p. 84). His argument is not able to generate collective or general responsibility for responding to avoidable vulnerability-in-principle, nor is it able to provide a coherent account of the relationships between vulnerabilities and responsibilities.

In the second part of her critique, Walker (1998) claims that Goodin (1985) has not adequately considered the ways our social practices of assigning responsibilities track morality (Walker 1998, p. 202). We are able to attribute parental responsibility for responding appropriately to their children’s vulnerability because we have *already* linked parents and children as importantly morally related through our social institutions and normative practices. Those institutions and practices, however, also make children *vulnerable* to their parents with regard to certain interests because they make children specifically *dependent* on their parents for meeting many of their needs.¹² In the absence of the social conventions and normative practices that have assigned to parents or guardians special responsibility for the care of their children, children would remain dependent on others to meet their needs and support the development of their capacities. However, they would not be especially vulnerable to their parents’ actions, competence, choices, and whims.

Walker (1998) argues that the vulnerabilities of children and the parental obligations generated by those vulnerabilities cannot be determined independently of the means of realizing these obligations and the social norms surrounding them. She notes that what may be accepted as morally appropriate responses to the vulnerability of infants (e.g., the provision of nourishment or health care intervention) will be shaped by social expectations and standards, including expectations about responsibility for providing care, and by available technological interventions. Social practices, including the social and institutional structures of family, kinship, and welfare protection, that relate to care for children “not only reflect understandings about well-being and human efficacy..., but in turn shape these understandings” (p. 89). According to Walker, Goodin (1985) accepts that vulnerabilities are, in part, socially constructed, but he does not acknowledge that the assignment of responsibility is equally socially constituted (as in the case of parental responsibility for children). For

¹² See chapters 10 by Lotz and 11 by Mullin for further discussion of children’s dependence and parental responsibility.

Goodin, the relationship between vulnerability and responsibility is unidirectional: social arrangements can create or exacerbate vulnerabilities and those vulnerabilities generate responsibility. Walker argues that social arrangements also construct responsibilities, which generate vulnerabilities, so the relationship between vulnerability and responsibility is bidirectional. "Responsibility assignments render some people vulnerable to particular others in particular ways for certain things, and thus create specific dependencies-in-fact" (Walker 1998, p. 90).

I agree with Walker's (1998) critique of Goodin (1985). However, I think that her argument can be developed further to better account for the ways the attribution of responsibility for care can generate pathogenic vulnerabilities. The practice of assigning responsibility for protecting the interests of infants and young children to parents (or foster parents or guardians) and bolstering that responsibility through legal recognition of parental (or guardian) authority generates the specific dependency of an infant on her parents or guardian for the realization of her needs and development of her capacities. Unchecked, this dependency can become a pathogenic vulnerability.

In Western societies, presumptive parental responsibility for children's care is coupled with presumptive parental authority and autonomy in raising children. This presumption potentially exacerbates the vulnerability of infants to their parents (or guardians). It limits the responsibility and authority of others to protect vulnerable children to allow parents to exercise their responsibility without onerous intrusion or threats to parental autonomy. The assignment of responsibility for children's care to parents or teachers or other carers particularizes the general obligation to protect the vulnerable. It shifts the responsibility for the vulnerable from all those whose actions may affect the interests of the vulnerable (whoever these may be) to those who have specific responsibility (parents, generally, but also teachers and carers in more specific contexts) to protect the interests of these particular children who are vulnerable. Any failure to protect those children's interests becomes more directly a moral failing on the parents or others who have been assigned special responsibility, and only as a protection of last resort does responsibility to protect children from parental failures become a collective obligation.

In circumstances where infants and children are in dysfunctional relationships with their parents or carers, they may experience *pathogenic* vulnerability. This will occur to the extent that responses to their dependency are distorted, or the development of their capacities is neglected, or their dependency is exaggerated. In these cases, the parents' or carers' behavior and attitudes toward the child exacerbate the existing vulnerability of the child. For example, an emotionally disturbed parent who prevents her child from having any social contact with other children or adults exaggerates her child's dependence on the parent for emotional, social, and cognitive development. This kind of parental influence distorts the ethical responsibility to provide care for

the dependent child. It impairs the development of the child's autonomy and exacerbates the child's vulnerability.¹³

Walker (1998) is right to note that the assignment of responsibility for responding to vulnerability can generate additional specific vulnerabilities (to the choices and actions of those who are responsible for providing care) in those who are vulnerable. Attending more fully to the ways assignment of responsibility for care to specific people may generate new vulnerabilities in those who are dependent raises the question of the general or social obligation to support carers in meeting their responsibilities. As I discuss in the next section, however, Kittay has demonstrated that within Western liberal democracies those who provide care for dependents are not supported in their care. Rather, they are themselves exposed to increased situational vulnerability and increased dependency. These are further pathogenic vulnerabilities.

3. How Does Care for Dependents Create Secondary Dependency?

In her work on dependency and the social value of dependency work,¹⁴ Eva Feder Kittay (1995, 1997, 1999) criticizes the assumption that the responsibility for providing care to vulnerable dependents is shared fairly. She demonstrates that those who engage in the work of caring for dependents are themselves vulnerable to becoming dependent on others for their own care. She argues that appropriate recognition of the demands of dependency and protection of those who are dependent (and their carers) requires rejecting notions of independence and autonomy, and focusing on the value of heteronymous personhood. I agree with Kittay that responsibility for providing care is not shared fairly and that those who provide care frequently experience *secondary dependency*, which I would describe as a form of pathogenic vulnerability. However, I do not share the view that the most appropriate way to ensure recognition of dependency is to reject the value of autonomous personhood. I argue, therefore, that to understand how dependency work can generate pathogenic vulnerabilities and to assess how best to provide social support for care providers, as well as their dependents, it is important to consider the impact of vulnerability on the development and exercise of autonomy, understood relationally.¹⁵

¹³ Examples of abusive or disturbed carers causing significant damage to the children in their care could be offered involving teachers or carers of children in schools, orphanages or foster homes.

¹⁴ In various writings this is referred to as dependency work, dependency labor, dependency care, and care labor: I use these interchangeably here to refer to formal and informal paid and unpaid work undertaken in response to the dependency of a specific individual.

¹⁵ A number of philosophers have developed the concept of relational autonomy, including Meyers (1989) and Mackenzie and Stoljar (2000). The connection between vulnerability and relational autonomy is discussed in a number of chapters in this volume, including those by Anderson, Mackenzie, and Scully.

According to Kittay (1995), care for dependents is activity undertaken in response to the dependency of those who are “unable to survive or thrive without attention to basic needs” (p. 8). Kittay notes that we are all utterly dependent in infancy; that we are all dependent to some degree during the course of our lives, whether because of transitory periods of dependence (such as periods of ill health) or because we need assistance in specific areas of our lives; and that we are inherently vulnerable to dependency.

Kittay (1999) draws on Goodin’s (1985) work on vulnerability in developing her understanding of the responsibility to provide care to dependents. Nonetheless, she argues that Goodin’s emphasis on the “fact” of the dependent’s vulnerability to another overlooks questions concerning the justice or moral worth of the relationship that makes one person dependent on another. Kittay shares Walker’s (1998) view that obligations to provide care for dependents arise not only from recognition of the ethical demands of dependency but also from gendered social practices that assign responsibility to care for others. What obligations there may be, and who bears these obligations to respond to our common vulnerability and dependency will depend on both the significance of the specific kind of vulnerability that is in question as well as its source or history (Kittay 1999). On Kittay’s account, an obligation to respond to another’s vulnerability may be canceled out by the injustice of coercive relationships “that society should not have constructed,” such as the responsibility of a slave for the welfare of his (situationally dependent) master (Tong 2002, p. 205). For Kittay, the relationships between dependents and their carers exist in “nested” sets of reciprocal relations and obligations, and because societies comprise people whose social participation has depended (and is likely to depend in the future) on caring relationships societies have obligations toward care providers, including the obligation to ensure that caring relationships are not grounded in coercion and domination.

Kittay’s (1997) critique of the Rawlsian conception of justice demonstrates that in locating care for dependents within the *private* rather than *political* sphere, Rawlsian liberalism places the moral responsibilities that arise from human dependency to the periphery of justice (Nussbaum 2006, pp. 96–154). By placing responsibility for responding to human dependence outside the political sphere, Rawls can simultaneously argue that there is a primary responsibility to care for dependents but can ignore the inequalities in opportunity that arise out of relationships of dependence, the social construction of these responsibilities, and the social contribution of care provision.¹⁶

¹⁶ Fineman shares Kittay’s view that dominant liberal political theory fails to recognize the social contribution of caregivers in not only protecting the lives and developing the autonomy of the individuals they care for but also making society possible. “Without aggregate caretaking, there could be no society, so we might say that it is caretaking labor that produces and reproduces society.... The uncompensated labor of care-takers is an unrecognized subsidy, not only to individuals who directly receive it, but more significantly, to the entire society” (Fineman 2000, cited in Parks 2003a, p. 64).

The fact that all human societies need dependency work—care—to be done ought to be reflected appropriately in our conception of justice, according to Kittay (1995). People who are dependent on others for care and those who provide care must be recognized as being legitimate moral claimants in the social order. Those who provide care for dependents (who may or may not be able to reciprocate this work) risk dependence on others to secure their own needs while they are caring for dependents. For example, if a carer needs to leave paid work to provide for the care of a person whose dependency is intractable, that carer will be more vulnerable to becoming dependent on *others* to provide care (for both the carer and the dependent) should the carer become ill or injured. If the work of caring is relegated to the private or domestic sphere, and hence excluded from the public sphere of the political, then those who have been socially assigned the responsibility of meeting the care needs of dependents are exposed to secondary dependence and the injustice of inequality. The carer, she argues, is not able to act in the society of equals as an autonomous agent or citizen—“not as long as her responsibilities lie with another who cannot survive or thrive without her ministrations. Her attention is directed to another’s needs; even her understanding of her own needs are [sic] enmeshed with the needs of a vulnerable other whose fundamental well-being is entrusted to her” (p. 11). Once care is recognized as socially valuable and ineliminable, then the injustice involved in social practices that benefit from the provision of this care without attending to the needs of care providers becomes clearer. To the extent that carers work to meet the needs of others at the risk of their own needs being unmet, then developing the institutional structures to attend to the needs of carers is a matter of justice.

While the work of providing care may be paid or unpaid, the failure to recognize the important social value of supporting the needs of those who require care means that *if* this work is paid, it is poorly paid. Unpaid carers (very often family members, and very often women) are frequently assumed to take on this work as a private choice, with marginal social support, even where there are very limited public resources available to secure alternative care for dependents. As a result, unpaid carers struggle to secure the resources needed to support the care for their dependents and struggle to secure their own needs (Dodds 2007). Paid and unpaid care workers are thus situationally vulnerable to risk of abuse, physical harm, and exploitation as they often work outside of public oversight or protection (Parks 2003b, Dodds 2007). Furthermore, these workers are often less able than others to secure support when they come to need care themselves.

As in the case of the vulnerability of children to the whims, desires, and neglect of their parents identified by Walker (1998), the secondary dependency of care workers identified by Kittay (1995) is an example of *pathogenic* vulnerability; in this case it is a pathogenic dependence. The pathogenic quality of the dependency is a result of the ways that the social-institutional structures

generate dependency. The secondary dependency of care workers is pathogenic because it arises from the failure of political institutions and policies to recognize the social contribution of care and the inequitable distribution of responsibility for caring and to ensure social support for carers. This, then, exacerbates the vulnerability of carers (and those they care for) in securing their needs.

I agree with Kittay's (1995) argument that ensuring adequate support for carers is a matter of justice rather than personal preference or choice. A decent society that acknowledged the inevitability of vulnerability and the significance of the provision of care should be able to ensure that those who take up the moral obligation to provide that care do not, in so doing, become more vulnerable themselves. However, Kittay's paradigm of dependent personhood makes it difficult for her to distinguish relations between carers and dependents, or social institutions and carers, that are coercive or dominating from those that are effective, respectful and supportive (Whitney 2011).

According to Whitney (2011, p. 560), Kittay (1995) seeks to displace a paradigm of independent personhood, which treats vulnerability and dependence as threats and aberrations, with an alternative paradigm of dependent personhood, to be able to affirm the moral value of caring and receiving care (*ibid.*). Kittay's contribution to our understanding of personhood "is that once we acknowledge the facts of corporeal vulnerability, we must not only acknowledge but also affirm dependency in any genuinely inclusive affirmation of personhood" (p. 555). Whitney is concerned, however, that in rejecting a conception of the self as self-interested and independent Kittay is left with little normative capacity to protect the interests and autonomy of carers from domination or coercion. Whitney argues, "In affirming dependent personhood to the exclusion of independence, we incur a demand [in responding to others' dependency] to overcome selfhood and become 'transparent' conduits of others' needs and desires" (p. 564). Whitney posits that we need a means of morally evaluating the demands of care as well as its aims, given that dependents' and carers' interests can be in conflict and are often in tension and that excessive or inappropriate care can exacerbate dependency.

I agree with Whitney (2011) that Kittay's (1995) rejection of the liberal conception of independence (in favor of a conception of the self as dependent) limits her ability to argue coherently against the social injustices experienced by carers: the domination and inequalities they experience. While I am not able to develop the argument fully here, I suggest in the following section that it is possible to avoid the conceptual difficulties Whitney identifies in Kittay's dependency critique of liberalism, by drawing on a more nuanced, relational approach to autonomy (Mackenzie & Stoljar 2000).

I have argued so far that both Walker (1998) and Kittay (1995) have contributed to the development of an account of vulnerability—including dependence—that attends to its social and political contexts. Their work also points toward the importance of understanding what I have referred to as pathogenic

forms of vulnerability. However, while they are concerned about the social practices or institutions that contribute to vulnerability-related injustices, they do not provide clear criteria for normatively evaluating responses to dependence and vulnerability as just or unjust. In addition, while both Walker and Kittay recognize the potential for public policy to contribute to appropriate institutional responses to vulnerability, they do not attend to the ways public policy interventions can generate pathogenic forms of vulnerability.

In the next section, I argue, first, that a number of policies and practices relating to dependency, care and vulnerability serve to generate pathogenic vulnerabilities, including the secondary dependency of carers. Second, I suggest that to identify and evaluate correctly those relationships or institutions that may generate pathogenic vulnerabilities, we need to consider the impact of vulnerabilities on the development and exercise of autonomy. I am not able to develop the positive argument fully in this chapter. However, on my view what makes public policy that generates pathogenic vulnerability unjust and morally abhorrent is that the policy fails to protect or promote the relational autonomy of the vulnerable people affected by the policy. A decent society would attend to and avoid institutional arrangements that generate these pathogenic vulnerabilities.

4. Pathogenic Vulnerability and Dependency

Pathogenic vulnerability is generated or exacerbated by morally dysfunctional social or interpersonal relationships or expectations. Social and legal institutions designed to reduce *dependency* or to promote *self-responsibility* may pathogenically exacerbate the vulnerability of the dependent or his care provider if those institutional arrangements fail to address the complex relationships between dependency and vulnerability. In contrast, carefully designed and responsive social and legal institutions aimed at reducing (everyone's) situational vulnerability or supporting the development of resilience may reduce some forms of dependency, in particular those that risk pathogenic vulnerability.

While autonomy has traditionally been understood in terms of the choices of an independent, self-determining individual, relational approaches to autonomy reject the emphasis on individual choice and freedom understood as independence. Those who adopt relational approaches to autonomy recognize the value of self-determination but also that the capacity for self-determination is developed in and sustained through interpersonal and social relations. To the extent that social structures, institutions, and law can support or thwart the development and exercise of autonomy, the promotion of autonomy is a matter of justice (Mackenzie & Stoljar 2000; Anderson & Honneth 2005).¹⁷

Because relational approaches recognize that the capacity for autonomy is developmental and promoted or thwarted by social and interpersonal

¹⁷ For a related argument for this claim, see also chapter 1 by Mackenzie.

relations, they are able to acknowledge the inevitability of human vulnerability. Understanding autonomy and its development relationally provides a basis for picking out the personal or social-institutional relations that generate pathogenic vulnerability. Dysfunctional personal or social relationships or expectations will be those that (1) fail to support the development and exercise of the autonomy capacities of those who are dependent and have the potential to develop autonomy or (2) fail to protect the autonomy of those individuals who are given responsibility for meeting the needs of dependent others.

In this section, I am particularly concerned with forms of pathogenic vulnerability that arise from public policy that ostensibly aims to support the autonomy of a particular group of people or to protect against some form of vulnerability or dependence but turn out to reflect unrealistic and inappropriate expectations of autonomy. In many such policies there is evidence of a background ideal of autonomy—one that values independence and personal responsibility and that treats vulnerability and dependence as contingent and private matters which arise from personal choice. Policies reflecting these ideals may, on one hand, involve misplaced paternalism by authorities or, on the other, involve the state seeking to restore or impose individual responsibility for independence on those who are dependent and vulnerable.

In the absence of adequate social support to reduce vulnerability, inherent and situational vulnerabilities may become exacerbated. Where the assignment of responsibility for responding to vulnerability is inadequate, new, pathogenic vulnerabilities may be generated, even in the face of policies that are intended to support the vulnerable (Rogers, Mackenzie & Dodds 2012). By drawing on an ideal of autonomy as independence, policy makers too readily discount the ways the skills and capacities required to develop autonomy are acquired in and shaped through relationships of care, social institutions, and legal recognition.

Relational approaches to autonomy, by contrast, provide a less idealized conception of the development and exercise of autonomy. On a relational approach neither vulnerability nor dependence is inconsistent with autonomy, although they may threaten it. Our powers or capacities are not developed in the absence of dependency, and they may be consistent with dependence (Whitney 2011, p. 569). On a relational approach to autonomy vulnerability is not to be contrasted with *invulnerability* but with resilience. For these reasons relational approaches to autonomy promise to provide the moral evaluative tools needed to identify, evaluate, and redress pathogenic vulnerabilities.

An example of policy that generates the kind of pathogenic vulnerability I have in mind can be found in the area of mental health care in Australia.¹⁸

¹⁸ Elizabeth Ben-Ishai (2012) offers further examples relevant to this point. She shows how punitive social policy responses to illicit drug use generate pathogenic vulnerability and how supervised injecting rooms can promote autonomy and resilience.

When Australia moved (as did many other countries) to “deinstitutionalize” people with mental illnesses, cognitive disabilities, and physical disabilities in the 1980s, it sought, in part, to reduce the stigmatization of these conditions and to improve what had in many instances been dehumanizing living conditions and demeaning paternalistic interference in the lives of those living with a wide range of mental illnesses. Some resources were provided to support those who had previously lived in institutional settings to be able to live in the community. However, the fragmentation of health and social services, sparsely distributed population, and competing demands on service providers have exacerbated the situational vulnerability of many people with mental illnesses (Rosen, Gurr & Fanning 2010). This exacerbation of vulnerability resulting from poorly supported or unrealistic policy is an example of pathogenic vulnerability.

In Australia, there is inadequate access to appropriate community based care for people with mental illnesses, yet many people with mental illnesses are well enough to live at home, if appropriately supported. In the absence of effective and well-resourced social supports many individuals with mental illnesses are unable to secure regular employment, less likely to be able to access health care services, more likely to be homeless or in public housing, more likely to be socially isolated, and more likely to depend on their immediate family for emotional, physical, and material care and support (Whiteford & Buckingham 2005). Their exacerbated social vulnerability and lack of access to appropriate mental health supports also means that many mentally ill people living in the community are likely to self-medicate using illicit drugs or alcohol and are consequently more likely to find themselves before the court for a range of offences, thereby making them legally vulnerable (Heffernan et al. 2003). In the absence of profound impairment, their mental illness is not likely to be taken into account in any legal proceedings to reduce culpability or mitigate punishment, meaning that the mentally ill person is very likely to end up in a prison system that is poorly designed to support the large number of prisoners who experience mental illness (White & Whiteford 2006). It is not hard to see that the initial vulnerability of the mentally ill person is exacerbated throughout this chain because of the absence of adequate support.

The situation of unpaid carers of mentally ill adults may also generate pathogenic vulnerabilities. While adult carers can access a range of support services and may seek some financial support (the Carer's Pension) from the government to assist them while they provide care for someone suffering mental illness, many of those who are mentally ill do not have partners or parents who are willing or able to care for them. Instead, a number of adults with mental illnesses rely on their juvenile children to provide that care. It has been recognized that a significant number of children under eighteen provide parental care in Australia, without the additional financial and social support of government benefits or social service protections, because they

lack the legal status required to access these benefits and services (Australian Broadcasting Corporation 2007; Australian Infant Child Adolescent and Family Mental Health Association 2004). This situation creates significant additional vulnerabilities for both the children and their dependent parents. The adults with mental illnesses for whom the children care are vulnerable to the limited knowledge and skills of their children in responding to their needs. Dependent parents may be socially, medically, and functionally dependent on their children, who are at the same time legally and emotionally dependent on their mentally ill parents. Appropriate social responses need to recognize the complexity of the sources of pathogenic vulnerability in these relationships of mutual vulnerability and dependence.

My point in sketching the chain of effects that has unfolded from the deinstitutionalization of mentally ill adults in Australia is not a call for reinstitutionalization. Rather, I would argue that those involved in implementing the policy of deinstitutionalization failed to ensure the social support and personal care required for the development of the autonomy competences of those with mental illnesses. As a result, new or exacerbated pathogenic vulnerabilities and dependencies have been generated by the failure of those policies to respond appropriately to the situational vulnerability of people with mental illness.

By contrast, some policies are more successful in responding to the dependency and the vulnerability of carers and their dependents. Adequately resourced paid parental and carer leave is an example of policy responding to the needs of dependents that aims to reduce the vulnerability of both the dependent and his carer. Providing some material support for those in the paid workforce who are unable to meet the needs of dependents while also working may allow carers better to provide for the needs of their dependents while reducing the workers' own vulnerability. However, an approach that focuses solely on the vulnerability of carers will not protect those vulnerable dependents who lack familial carers. Once we attend to the needs of dependents we can see that the social assignment of responsibility for care to family members is not adequate to address the care needs of those who are socially isolated or whose immediate kin lack the skills, willingness, or resources needed to support the dependent.

More generally, the existence of supports and adequate services for the social provision of care can reduce the dependency of those who are inherently or situationally vulnerable and can potentially avoid or reduce the ways they may be dependent on vulnerable others. Social institutions that protect the legal and political status of those who are especially vulnerable (e.g., refugees, people with cognitive impairments or mental illnesses) and measures to reduce vulnerability across the community (e.g., public health and safety controls, measures to reduce social domination and discrimination) may also decrease the dependency frequently experienced by members of disadvantaged groups.

Further, social provision of programs to develop and enhance capacities for resilience—such as public provision of education, counseling, or community development programs—can minimize dependence on others for care.

5. Conclusion

Dependence occurs in circumstances where a person requires care from one or more specific people to address occurrent vulnerabilities. The provision of care for a dependent can be understood as a moral response to human vulnerability. If, as I have argued, dependency is an ineliminable part of the human condition and the provision of care can create new vulnerabilities for dependents and their carers, then social and institutional responses to dependence are, as Kittay (1995) argues, matters of justice. I have drawn on Walker (1998) and Kittay to clarify the relationships between vulnerability, dependence, and care and to show how social assignments of responsibility for responding to dependency can give rise to pathogenic vulnerabilities. My aim has been to develop an account of vulnerability and dependency that can be used critically in normative assessment of pathogenic relations of dependence and vulnerability, including normative assessment of social policy. For that reason, while I am sympathetic to much of Kittay's argument, I argued against her view that the notion of dependent persons is sufficient to ground adequate responses to vulnerability. I argued that, to avoid generating pathogenic forms of vulnerability, social policy responses to vulnerability need to be guided by a normative commitment to autonomy, understood relationally. Finally, specific examples of social policy that generate pathogenic vulnerabilities and foster resilience were provided to illustrate the potential to apply the concepts discussed in this paper to normative assessment of policy.

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Disability and Vulnerability: On Bodies, Dependence, and Power

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This chapter critically assesses the assumption that disabled people have special vulnerabilities distinct from the ontological vulnerability of all human life. First I consider different routes to the vulnerabilities that disabled people might be expected to experience. By reexamining the relationship between vulnerability and dependency and between dependency and loss of autonomy, I challenge the consensus that dependencies, and the vulnerabilities that come with them, are necessarily incompatible with full autonomy. Furthermore, if dependencies of varying degrees are ubiquitous rather than restricted to disabled persons or the very young, old, or ill, the “special” nature of disability-related vulnerabilities must be reconsidered. Arguably, the line between “normal” and “special” vulnerability is not natural but is established through social and political decisions that determine when a dependency will be taken for granted and therefore normative and when it is marked as exceptional and therefore nonnormative. I conclude that a more comprehensive notion of ontological vulnerability, which includes the vulnerabilities that develop through all forms of dependency, may be ethically and politically preferable to a narrower one.

1. Defining Vulnerability

Research and medical ethics, and now public health ethics too, pay particular attention to individuals or groups they describe as *vulnerable*. These are individuals or groups who are considered likely to be in need of special safeguards, supports, or services to protect them or enable them to protect themselves from certain harms. In research ethics, for instance, vulnerability is often about being subject to exploitation by the research enterprise. Concern about more than usual levels of exploitation is embedded in many of the

instruments that regulate healthcare research: the Declaration of Helsinki, for example, states that “some research populations are vulnerable and need special protection” (World Medical Association 2008). Guideline 13 of the CIOMS *International Ethical Guidelines for Biomedical Research Involving Human Subjects* describes vulnerable groups as being “incapable of protecting their own interests” (CIOMS 2002) in the context of giving informed consent. In general, vulnerable groups include those thought unlikely to have the *cognitive capacities* to protect their own interests properly, such as children, and those in positions where *power differentials* could compromise their capacity to make autonomous choices, such as students or prisoners. In the context of clinical rather than research ethics, vulnerability has tended to refer to patients in a particularly weak position within the doctor–patient relationship. Finally, recent trends in public health ethics have begun to consider vulnerabilities to health problems that arise because of broadly based social inequalities. In health policy and social policy debates more generally, the terminology of vulnerability may be used even more expansively.¹

Bioethical writing on vulnerability has made the point that, although a useful moral concept, it is chronically undertheorised. Moreover, existing theory is dogged by a central ambiguity (Dodds 2007; Rogers, Mackenzie & Dodds 2012). *Being vulnerable* means something like being more than usually likely to experience the bad things that can happen to humans. (Vulnerability is always about the odds of experiencing bad things: we don’t talk about someone vulnerable to being healthy or well off.) The ambiguity relates to whether vulnerability is taken to be a universal feature of all human lives or alternatively as something that is experienced more in some lives and not (much) in others. If by vulnerable we mean something like to be potentially subject to harms of various kinds, especially to what are often taken as natural or inherent harms such as illness, injury, or death, then all human beings are vulnerable. As Martha Fineman (2008) puts it, vulnerability is “universal and constant, inherent in the human condition” (p. 1). In this understanding of vulnerability it is a feature of human ontology always to have the potential to be affected by these harms, and none of us can hope to escape them entirely (whatever else happens, we begin in the intensely vulnerable state of infancy, and we die in the end).

The alternative sense of vulnerability, and the one predominant in research and public health ethics, is that some people, for some reason, are *especially* vulnerable: they have greater chance than others of being subject to harms. Special vulnerability can mean that people are more vulnerable to specific kinds of harm or that they are just more likely to experience harms in general. For example, university students are not normally thought of as notably vulnerable beings. Nevertheless, in the context of academic research

¹ See chapter 2 by Rogers for detailed discussion of these issues.

they might well be less able than others to withstand pressure to take part in studies, especially if the request to be a guinea pig comes from their own professor, so as a group students are considered vulnerable to this very specific kind of exploitation. On the other hand, small infants are *globally* vulnerable: we recognise that they are unable to protect themselves from pretty much anything and are dependent on adults to shield them from a wide range of harms.

One of the difficulties of theorising vulnerability, then, is that some people are thinking in terms of vulnerability as ontological, an unavoidable part of the fabric of all human life, while others are using it in a more limited sense to describe a state that relates to only some people, or in only some contexts, and that, in principle at least, can be avoided. Each of these understandings pushes some features of vulnerability to the fore while necessarily obscuring others. Concentrating on the generality of vulnerability may distract from identifying with empirical rigour the particular conditions that make some people more vulnerable to harms than others, and this in turn makes it harder to do anything to change those particular conditions for the better. On the other hand, concentrating only on the special vulnerabilities of defined groups reinforces the notion that although some people need special protections, the norm of human life is to be, or aspire to be, invulnerable. Populations then become dichotomised into two distinct groups: people who are “normal” and sufficiently invulnerable to be left to get on with their lives; and vulnerable others who are in some way abnormal and need extraordinary treatment, either to restore them to normality or to offer them ongoing protections that normal people do not need.

Disabled people are among those commonly held to be specially vulnerable. Research ethics approval procedures, for example, are frequently designed so that the involvement of disabled people triggers extra ethical scrutiny or requires the researchers to give stronger than usual justification for using disabled participants. In this chapter, I will critically assess the belief that disabled people have special, more, or different vulnerabilities that set them apart from nondisabled people. First I consider what it is that disabled people are especially vulnerable to, distinguishing between different routes to vulnerability. Then I consider the connections between vulnerability and loss of autonomy, using a relational approach to challenge the consensus that dependencies and their attendant vulnerabilities are incompatible with full autonomy. This then leads to a reconsideration of the “special” nature of disability-related vulnerabilities and to the conclusion that the line between normal and special vulnerability is not natural but established through political decisions about the limits to normative dependencies. I end by arguing that a more comprehensive notion of ontological vulnerability, which includes the vulnerabilities that develop through all forms of dependency, may be ethically and politically preferable.

2. Exactly What Are Disabled People Vulnerable To?

Describing disabled people² as vulnerable says that they are more likely to face harms (either specific kinds of harm or harms in general) than nondisabled people. This feels intuitively right: disability is a predicament (Shakespeare 2006, p. 63) that presents people with a range of difficulties nondisabled people may never face. Nevertheless, it is worth examining exactly how disability produces vulnerability, as vulnerabilities can develop for significantly different reasons even if the cause—disability—appears to be the same.

2.1. INHERENT VULNERABILITIES

Some vulnerabilities are unarguably the direct results of an impairment itself. They may be thought of as inherent to the material nature of the impairment, whether physical or cognitive. Many such inherent vulnerabilities will affect health: for example, some disabilities and chronic illnesses are associated with problems such as infections or with long-term degenerative processes, a reduced life span, or fatigue. Genetic syndromes can entail multiple impairments, some of which may be health related, such as the cardiac defects associated with Down syndrome. Other vulnerabilities may be inherent to the impairment but are not, or don't appear to be, directly health related. A person with a mobility impairment may have poor balance and fall over more easily; a learning disability leading to poor reading skills can mean a reduced ability to access important information and so to social difficulties of various kinds. It may not be possible to eliminate all impairment-related inherent vulnerabilities from the lives of disabled people, but it can be argued that societies and states have a moral responsibility to do whatever can reasonably be done to minimise the impact of inherent vulnerabilities on the lives of disabled people.³

2.2. CONTINGENT VULNERABILITIES

Although inherent vulnerabilities directly resulting from impairment are real and important, the proportion of vulnerabilities that are *purely* inherent—where

² Given the widely acknowledged difficulty of providing a comprehensive definition of disability, I am not going to try to do so here. As a working understanding, by disability I mean a physical or mental variation in form or function that is statistically unusual and leads to disadvantage or suffering. Much of my discussion is as applicable to chronic illness as to disability. Although disability and chronic illness are not coterminous, and disability scholars have argued that the experiences of disability can be very different from those of chronic illness, there are some significant overlaps between the two. In this chapter, however, my main focus is disability, and throughout I refer only to disabled people without attempting a rigorous examination of the extent to which chronically ill people can be included in this analysis.

³ The social policy discussion of the limits to this responsibility in contemporary society is beyond the scope of this paper.

there is no social or environmental component contributing to the vulnerability—is probably much lower than traditional views of disability suggest. The idea that some disability vulnerabilities are inherent and others contingent on social or environmental factors⁴ draws from the social-relational accounts, developed over the past 40 years, that understand disability as the product of a particular social response to embodied difference and not as an individual pathology. A central part of the strong *social model* (Oliver 1996; Shakespeare 2006; Thomas 2007) is its differentiation between impairment and disability, and although over time the flaws of the social model have become more apparent the insight that disablement (rather than embodied impairment) is socially mediated remains an important one. For instance, a mobility-impaired person's vulnerability to falls can be exacerbated by poor environmental design or conversely minimised by taking the constraints of the impairment into account. If information can be made available in forms that don't depend on a high level of reading comprehension, then the vulnerabilities resulting from some forms of learning disability are reduced (although not eliminated). The presence of these barriers (of the built environment and information provision) is related at least as much to the marginalisation of disabled people's needs by majority society as to the impairment itself.

A high proportion of the vulnerabilities commonly associated with disability are therefore contingent rather than inherent, because they are secondary to a particular social response to impairment. Such contingent vulnerabilities can be very broad. For example, disabled people are on average more vulnerable to all forms of social disadvantage than are most nondisabled people. Globally, disabled people are statistically many times more likely, for example, to be in poverty or unemployed, to receive little or no education and inadequate health care, and to experience abuse or to be the victims of hate crime.⁵ Vulnerabilities to these harms are neither natural nor inevitable consequences of the impairment; they occur because of the unequal ways that existing material, cultural, and social resources are distributed and so are either produced or exacerbated by social institutions. The contingent vulnerabilities of disabled people are the outcomes of historical and contemporary relationships between societies and their disabled members. Vulnerabilities like these can be called contingent because, although the presence of an impairment undeniably plays a role (otherwise people would not be marked out as “disabled” in the first place), the major impact on the disabled person's life is mediated through social relations and institutions that could be organised differently. Inherent vulnerabilities, by their nature, may sometimes be resistant to substantial

⁴ Compare this with the situational vulnerability discussed in the Introduction to this volume.

⁵ Detailed figures can be obtained from a variety of sources, including the UK's Office for Disability Issues (2013), Eide and Ingstad (2011), and global statistics from World Health Organisation and World Bank (2011). For hate crime specifically, see Quarmby (2008, 2011).

amelioration. Contingent vulnerabilities, on the other hand, are generated through patterns of social, cultural, and political response to disability; they can, in principle at least, always be altered. Although later on I will be arguing *against* separating the inherent components of vulnerability out from the contingent ones, I want to acknowledge here that doing so does give us some analytic power to identify, or at least to imagine, those social transformations that would in practice reduce the contingent vulnerabilities of disabled people.

While physical impairments are clearly different from cognitive ones, I will be cautious here about drawing a sharp line between the two in terms of the degree to which the related vulnerabilities are inherent or contingent. It would be misleading, for instance, to imagine that physical impairments are always more easily ameliorated by social rearrangements where cognitive impairments are not. It is true that cognitive impairments more than physical ones expose a person to the significantly different vulnerabilities of exploitation by others, lack of self-care or self-protection, and simple failure to be offered a place of security and comfort in complex societies. But it is also true that some of those vulnerabilities could be reduced by social and attitudinal change. In a similar way, both physical and cognitive impairments can be so severe that no amount of social rearrangement will have much impact on the resulting vulnerabilities. These nuances need to be borne in mind here and when I discuss dependencies later on.

2.3. ASCRIBED GLOBAL VULNERABILITIES

So far I've suggested that disabled people may be viewed as subject to two kinds of special vulnerabilities, arising either inherently due to features of their impairment or contingently from social and political responses to impairment. In addition to these very real vulnerabilities, however, there is a third, curious kind of vulnerability that disabled people are often perceived as experiencing but in reality rarely do. I call it *ascribed global vulnerability*. By this I mean the tendency on the part of the nondisabled⁶ to extrapolate a genuine vulnerability in one area of a disabled person's life (e.g., physical weakness, economic precariousness) to a globally increased vulnerability stretching over the entirety of that person's life.⁷ Ascribing global vulnerability is especially pernicious because of the insidious damage it does to other people's attitudes

⁶ This is of course an oversimplification. There are nondisabled people whose approaches to disability don't fall into this trap, and equally (though less obviously) there are disabled people who ringfence the nuances of their own impairment while ascribing global vulnerability to other impairments. For the sake of conciseness, I'm writing here as if the responses of disabled and nondisabled people are more uniform and distinct than is really the case.

⁷ This is analogous to the well-known "Does he take sugar?" syndrome, in which an impairment of one ability (e.g., to walk) is assumed to extend to other abilities (e.g., to answer questions about how one likes one's tea).

toward disabled people's own agency. Vulnerability is strongly associated with qualities such as immaturity, weakness, helplessness, passivity, victimhood, and humiliation; moreover, it can specifically entail being unusually open to manipulation and exploitation by other, more powerful, knowledgeable, or unscrupulous people. Against a background of such strong negative associations, the more vulnerable a disabled person is believed to be, the less likely it is that others will treat the choices she makes or opinions she holds as worthy of respect. To appreciate the full damaging effect of this, we have also to place it in the context of a long and largely neglected history in which disabled people were routinely excluded from full social and political citizenship (Campbell & Oliver, 1996; Longmore & Umansky, 2000; Carey, 2009). Paradoxically, then, it can be that the recognition of real vulnerabilities, which ought to be the basis for protection against them, when coupled with the ascription of global vulnerability, can in itself be a harmful process through its weakening of disabled people's claims to be treated as equal moral agents.⁸

3. Vulnerability and Dependency

My working definition of vulnerability as being more than usually likely to experience the bad things that can happen to humans is a useful way of thinking about vulnerability because it identifies what is common to the *experience*, irrespective of the mechanism through which vulnerability arises or to whom or how universal or special vulnerability is. And whether vulnerability is understood to be inherent or contingent, the definition also suggests that being exposed to harm has something to do with the degree of control a person has over her life. Most of us would prefer that illness, injury, and so on do not happen to us; a person is vulnerable therefore precisely because she can't control whether or not these bad things happen to her or can't shield herself adequately from their consequences, whether they come about through the biological material reality of any human embodiment or through social and political structures that expose people differentially to various harms.

The connection between vulnerability and being unable to shield oneself from harm is an illustration of the way the concept of vulnerability interweaves with a range of other morally salient concepts, such as need, independence, and control. Thus much of the discourse about disabled people's vulnerability is less about variations in body form or function than about their greater dependency. For many people the crucial difference between disabled and nondisabled people is that disabled people are more dependent (than

⁸ Compare this with the form of *pathogenic vulnerability* described in Rogers, Mackenzie, and Dodds (2012, p. 25), in which "some responses may exacerbate existing vulnerabilities or generate new vulnerabilities."

normal people) on the direct or indirect help of individuals or the state to lead their lives. For this reason, I will focus the rest of my discussion of disability and vulnerability in terms of the vulnerabilities that arise from the supposed greater or exceptional dependency of disabled people.

Although dependency and vulnerability are conceptually and practically linked, they don't usually refer to quite the same thing.⁹ I want to suggest here a form of reciprocal relationship between the two. First, the *special vulnerabilities* of disabled people will often render them more dependent on assistance from other people to protect themselves from harms to the same degree that nondisabled people can. Going back to the example given earlier, a mobility impaired person who is vulnerable to falls because of a hostile built environment—and so to the secondary vulnerabilities that this generates, such as fear of going out, leading to social isolation, lack of mental or physical stimulation, inability to get to work, and consequent loss of income and status—may be dependent on help or resources (financial, practical, political) to access alternative ways of getting around that are less risky or to adapt her environment.

The reverse logic says that being dependent is *itself* a vulnerability. Any dependency is necessarily about need, and needing another person or a service to do something renders someone vulnerable to what happens if that person or service is not available. A wheelchair user who is dependent on ramps or lifts to get around buildings will manage well when they are installed but is suddenly rendered vulnerable when faced with older or poorly designed buildings that don't have them and where a normally mobile person can still make it up the stairs. A deaf person who communicates most effectively through signing is dependent on other people knowing sign too or on having an interpreter; otherwise, she becomes vulnerable to failures of communication, to being unable to function in a phonocentric world with all the consequences that has, and so on.

In summary, vulnerabilities make disabled people dependent on external supports of one kind or another: their special vulnerabilities lead to exceptional dependencies. Reciprocally, a dependency creates a new vulnerability. Whatever the reason for the dependency its existence immediately inserts the risk of *what might happen* in the life of that person if whatever she depends on is withdrawn.

⁹ Some authors (e.g., Fineman 2008; see also chapter 7 by Dodds) try to separate vulnerability and dependency out more or less clearly. Fineman distinguishes between the two by describing vulnerability as similar but not identical to what she calls inevitable dependency. For Fineman, vulnerability is universal and constant, whereas inevitable dependency is episodic, sporadic, and primarily to do with biological development through the life course. For reasons that should become clear later, I find it more helpful to try to think through how vulnerability and dependence are connected than how they can be distinguished analytically.

4. Relationality, Autonomy, and Vulnerability

Within the Western moral philosophical tradition, the defining characteristic of moral agents is the capacity for independent, rational self-determination. An autonomous moral agent can determine for herself how she wants her life to go, and can also effect those choices, by taking steps to ensure that what she has autonomously decided she wants to have happen does happen (Scully 2010). In conventional thinking about the autonomous moral agent, autonomy and dependency are effectively antagonistic to each other. People who are dependent on something external to themselves are not entirely in control of what happens in their lives, so they are seen as lacking the full autonomy enjoyed by people without those dependencies.

And the connection between dependency and vulnerability suggests that a similar sort of antagonistic relationship exists between *vulnerability* and autonomy as between *dependency* and autonomy. That is, if autonomy is a person's ability to steer the course of her life, then the more autonomy a person has the more likely she is to make the kind of choices that shield her vulnerabilities and vice versa. (This is oversimplifying things, since people may make mistaken or misguided choices that leave them vulnerable or make choices that others consider to increase vulnerability but which they themselves don't see like that.) Put another way, if autonomy is the capacity to make what you want happen, then vulnerability, as the inability to protect oneself against unwanted things happening, is a specific kind of autonomy deficit. If we also think that autonomous agency is one of the defining characteristics of personhood, then what follows from all of this is that to be exceptionally vulnerable is to lack the "traits of full personhood" (Dodds 2007, p. 502).

According to traditional liberal or Kantian accounts, autonomy is an attribute possessed by an individual and exercised to a greater or lesser extent both in making and in effecting self-determined choices. As is now well-known, though, a growing body of work in feminist and communitarian schools of philosophy attempts to replace atomised models of autonomy and moral agency with ones that draw on more relational views of human life. Relational accounts consider the various ways familial, community, and institutional connections enable people to behave as autonomous agents: most obviously by providing practical routes to effecting choices but also by encouraging the development of certain attitudes toward oneself, such as self-trust and self-respect, that are necessary to make life-guiding decisions and by fostering the internalisation of the very idea of self-determination. Where traditional models see autonomy as exercised more or less against the rival claims of others, relational accounts see the networks of social and institutional interdependencies within which people are embedded not as compromising self-determined choice and action but rather as providing the cognitive and practical conditions of possibility for them (Mackenzie & Stoljar 2000).

Relational perspectives provide one reason that being more than usually dependent on others because of disability can't be equated straightforwardly with an overall decrease in autonomy. Social and interpersonal connections are what make autonomy possible at all, but social or interpersonal connections also imply dependency. Few relationships are completely level in power: one person generally has more power or control than the other or brings more to the relationship—although it may not always be the same person at every moment in every situation. This means that in any relationship one party will be dependent on the other(s), even transiently and even if there are no gross formal asymmetries in power. On a macro level, if the model of relational autonomy is right, people are dependent on the *fact of relationship* and what it enables them to do even if they are not obviously involved in identifiable asymmetric relationships.¹⁰

To be so involved in social relations that choice and action are possible at all is at the same time to be dependent on people and institutions. In this way, dependency becomes an indissoluble part of autonomy rather than the threat to autonomy that it is in traditional accounts. Relational thinking brings autonomy and dependency together in an ambivalent way, in which the ties that bind us to others both support and constrain our individual possibilities for self-determined action.

If social relations entail dependencies that at the same time enable autonomy, then being more than usually dependent on others—as disabled people frequently are—does not mean an inevitable loss of autonomy. What dependency does to a person's autonomy in any real case will be shown by the actual outcomes: the forms of self-determined life that specific dependencies enable a person to pursue. Disabled people often rely on direct help by other people (e.g., paid personal assistants to give hands-on care) or on the more indirect provision of a service (e.g., subtitling or Braille signage) to do things that adult nondisabled people can generally do alone. These patterns of dependencies may be abnormal, in the sense of being statistically unusual, but there is no straightforward connection between that and how much autonomous agency the disabled person has. The fact that someone requires a contribution from another person or a service to perform a function that most other people appear to do alone¹¹ need not compromise self-determination, as long as the outcome is the same.

For this to be true, however, depends on the contribution by another person or service actually being made: in other words, it is a vulnerability. Whether being more than usually dependent on another person or service constitutes an *exceptional* vulnerability will be determined by the place we give to the

¹⁰ See chapters 1 by Mackenzie and 5 by Anderson.

¹¹ The reason I say "appear to" is that the ability to do things completely independently may be illusory, as I argue.

interrelationships between people in normative human life. Relational theories hold that autonomy is possible only through networks of relationships; I have suggested that such autonomy-generating relationships are also, paradoxically, dependencies. But if it really is the case that autonomy is made possible for everyone through relationships of dependency, then the associated vulnerabilities can hardly be exceptional. They *are* vulnerabilities, in the sense that any dependency leaves people open to risk of particular harms, but they are also ubiquitous enough not to be exceptional in any meaningful sense. Moreover, the impact of social and institutional bonds on a person's vulnerability is dizzyingly ambivalent. On one hand, many (though as we saw earlier, not all) vulnerabilities arise because of the existence of asymmetric relationships. On the other hand, it is through relationships that an individual gains access to the kind of supports that shield against or minimise exposure to risks. This applies both to practical access and also to the community identities that enable the making of legitimate political claims—forms of social and political capital through which vulnerabilities are managed.

5. Permitted Vulnerabilities and Dependencies

There is a common way of thinking about disability and vulnerability that goes something like this: while it may be true that it *just is* part of the human condition to be at risk of damage, illness, loss and death, in practice these vulnerabilities take effect at defined points of the life course. In the normal course of events people are really vulnerable only when they are so young, old, or sick that they can't do things to shield themselves from harm. Disabled people therefore still constitute a special case because they remain exceptionally vulnerable and dependent on others throughout their lives.

This view of dependence and vulnerability ignores the way that all of us are dependent on others, even when we are adult, able-bodied, and healthy. Much writing on care, for example, by feminists and others, treats dependence and the resulting need for care as synonymous, implicitly suggesting that people suffer ontological vulnerability only periodically, at defined points in the life course when they become dependent on care by others. Here dependency is restricted to the need for active and obvious care to carry out various functions of daily life, such as being fed, washed, and given help to move around, or care in the form of advocacy or legal protections when mental capacity is impaired. So for example one description of the ethics of care says that it "recognizes that human beings are dependent for many years of their lives.... Many persons will become ill and dependent for some periods of their later lives, including in frail old age, and some who are permanently disabled will need care the whole of their lives" (Held 2006, p. 10). Writing about "dependent rational animals," Macintyre (2002) says that the "dependence on particular others for

protection and sustenance is most obvious in early childhood and old age. But between these first and last stages our lives are characteristically marked by longer or shorter periods of injury, illness or other disablement, and some among us are disabled for their entire lives" (p. 1). In general, the literature implies that there are long stretches in a normal life during which a person is independent, not in need of care, and effectively invulnerable.

What I want to do here is extend the idea of dependencies beyond situations that involve direct care of the kind that care ethics tends to discuss. In her groundbreaking book *Love's Labor*, Eva Feder Kittay (1999) quite deliberately restricts her idea of dependency worker to this narrowest meaning. Kittay recognises that her discussion is based on "the more extreme dependences" and that dependency "is found not only in the case of a young child who is dependent on a mothering person. A boss is dependent on his or her secretary. Urban populations are dependent on agricultural communities We are all interdependent" (p. xii). She argues (I think rightly) that at the limit there is *dependency* that is not yet or no longer an *interdependency*, and she chooses to focus on these dependencies to get away from the idea that "interdependence is simply the mutual (often voluntary) cooperation between essentially independent persons" (ibid.). Her aim is to highlight the injustice of the asymmetric burdens placed on dependency workers in these "extreme" situations. Here, by contrast, I want to draw attention to the ubiquity of dependencies, of varying degrees, in generating vulnerabilities that are erroneously assumed to be characteristic of, and limited to, disabled persons or the very young, old, or ill.

Human beings live in communities and thus are reliant on others to perform some functions and provide services that a single individual either can't or prefers not to. Few of us could survive, let alone thrive, even as healthy, able-bodied adults, if we had to do absolutely everything for ourselves that we needed to. (And even if we could, most of us would find it an intensely demanding, precarious, and probably tedious form of life.) In anything but very rudimentary or transient groupings, people are supported in a dense network of dependencies for food, light, heat, housing, communication, friendship, love, education, policing, transport, rubbish disposal, health care, and on and on. We live in groups because that's how we live best. Each person contributes in some way to the ecology of a group in which most individuals would do less well without the activity of others to help meet their needs. These needs are so ubiquitous and so much a part of contemporary life that they are not even seen as dependencies—at least not until the services are not provided and individuals find themselves unable to flourish or even survive without them. The fact that we are not used to taking these extended and indirect dependencies into account becomes obvious when, for example, authors describe "individualistic accounts" (of autonomy) as being "best suited to those who have no need for the benefits of social cooperation or other forms of support" (Anderson & Honneth 2005, p. 129). In reality, such accounts are best suited

to no one, because no real person has no need for the benefits of cooperation or help.

Living in this kind of interdependence is not a matter of rational contract, nor is it a balanced exchange of services between equals. Feminist care ethicists recognise that relationships of care are fundamentally asymmetric in terms of labour and power.¹² Close relationships of care between carer and cared for are not balanced. Similarly, the extended, direct and indirect dependencies I describe here are also likely to be unbalanced, in that some people will get, or appear to get, more out than they put in. On a societal level, however, the aim is that burdens and benefits balance out overall: the ecology of interdependencies “works” to enable the flourishing of the society as a whole and of its individual members. (It remains important to scrutinise what happens in particular cases, however, to ensure that the inevitable asymmetries are not systematically unjust to particular people or groups.)

If all human lives necessarily involve dependencies, then *all* lives entail vulnerabilities as well. These are ontological in a different way from the vulnerabilities I described earlier, which come about through the material and biological finitude of the human organism. They are also different from the contingent vulnerabilities generated by structural inequalities. The vulnerabilities I describe here are not inherent but are generated intersubjectively; they are ontological not because they derive from biological embodiment but because the need to live in groups where members support and care for each other is (according to all the empirical evidence we have) intrinsic to being human.

And if this is the case, then we need to ask why some kinds of dependency are perceived as leading to problematic vulnerabilities while other kinds are effectively permitted. Societies permit certain dependencies, the ones that (most) people will share, by not seeing them as dependencies at all. Commonly shared dependencies become genuinely invisible. The chief executive officer who boasts of being dependent on no one would be unable to lead the life that she does without a thick network of practical and less tangible supports in the background. They range from the family relationships in which she developed the psychic resources to function as an adult, the social policies that gave her access to schooling, higher education, and health care to the infrastructures and services like rubbish collection that her local community provides, the builders of motorways she uses to drive to work, and the makers of planes and trains that transport her to her meetings. These are dependencies: imagine what would happen to her life if all of these provisions were to disappear overnight.

¹² Traditional social theorists have spotted this too. Their main divergence from feminist care theorists is that the latter place asymmetric relations, and not reciprocal exchanges, at the normative heart of social life.

So permitted dependencies are naturalised and normalised. They are met and supported without question, and in doing so the vocabulary of vulnerability is never used. Other people, and groups, will have needs that fall outside the normative limit. These are nonpermitted dependencies. They are figured as abnormal and classed as rendering those people as especially vulnerable. Yet a dependency on good roads to commute to work, although more common than a dependency on Braille signage, is still a dependency. The fact that the first is not registered as a dependency at all but as normal while the latter is seen as an exceptional vulnerability is a political choice. Normative dependencies are, tautologically, the dependencies of the normative citizen, and for reasons exhaustively articulated by feminist theorists the normative citizen of moral and political philosophy is likely to be male, white, and heterosexual. He will probably be nondisabled as well, so the lines of normative dependencies are crafted around what a standard model adult body can do.¹³

It is important to be clear that my argument is not that these lines are *necessarily* wrongly placed. The unspoken rules about which dependencies are normalised are not to be dismissed as purely arbitrary. In any one case there will be demographic, practical, economic, or political reasons that the limits to normative dependency are drawn where they are. If the majority of passengers that board a train need lighting so that they can carry on reading on nighttime journeys, then it pays the rail company to take this need for granted and provide it as standard. If only one in a hundred passengers can't enter the carriage by the regular steps, equipping all carriages with wheelchair hoists as standard may make no *economic* sense. To complicate matters further, the demarcation between permitted and nonpermitted can be fuzzier for those features where there is overlap between an "unusual" impairment and the impairments that emerge as bodies age. The important point is that what counts as a permitted dependency (and therefore *doesn't* show up as exceptional vulnerability) is not "natural," in the sense of simply following on from the fact of impairment, but is established and maintained through implicit decisions made by the people, usually not disabled, who have the power to do so.

6. Disability and Theorising Vulnerability

Disability acts as an alternative lens through which to examine existing theories of vulnerability and to propose alternatives that better account for

¹³ Making a similar point, Holstein, Waymack, and Parks (2010) note the way that "the privileged have their dependency needs met almost invisibly—meals appear, beds are made, bills paid, suits are pressed—and in socially acceptable ways that honor norms of independence" (p. 115). Their examples are still limited to direct forms of care, however, whereas I am extending dependency to include more distant and indirect relationships.

the experiences of people with impairments. Examining exactly why people with disabilities are routinely described as more vulnerable than nondisabled people, for example, highlights that although impairments may well generate inherent vulnerabilities, whether they are experienced as profound or relatively trivial will depend a great deal on societal responses to impairment and difference. Moreover, the effects of the inherent vulnerabilities of impairment are amplified through structural and institutional processes that distribute unequally the resources that people might use to shield themselves and foster resilience against the impact of disability.

The theoretical lens of disability also suggests the need for an enlarged concept of ontological vulnerability. Earlier, I defined ontological vulnerability in terms of the ultimately unavoidable bad things that are intrinsic to the material and biological nature of embodied human beings (getting hurt, getting old, dying). The subsequent argument that relational dependencies are ubiquitous goes on to suggest that the vulnerabilities created through these dependencies can be described as ontological in a different way. It seems to be a fundamental part of how human beings are that we need the direct and indirect support of other people to lead anything that can be described as self-determined lives or lives worth living. All people are ontologically vulnerable to this need, whether disabled or not.

So what have been thought of as special vulnerabilities, such as the vulnerability of disability, can always be seen as particular manifestations of a broad ontological vulnerability to do with being human. This conclusion explicitly rejects the division of vulnerabilities into the ontological kind, looking much the same across all people, and on top of that the various special vulnerabilities of particular populations, generated by their exceptional characteristics and needs. Instead, we should think of ontological vulnerability as being manifested in more diverse ways than has been supposed. The reason that this shift in perspective is important is that if we perceive what I called earlier the special vulnerabilities of disabled people as exceptional—that is, as an additional set of vulnerabilities on top of the standard vulnerabilities of normative human life—they (and the people who show them) become anomalies that fall outside the accepted framework of everyday life. As such, these vulnerabilities are then more likely to be approached as fundamentally preventable so that effort and resources will be directed at eradicating them and possibly also eradicating the people who display them. If, however, they are seen as a particular manifestation of something more general that all human beings experience in one way or other, then these special vulnerabilities instead become areas of normal life to be managed rather than just prevented or eradicated. The attitude that vulnerabilities are manageable will, I suggest, encourage the kind of open-minded engagement with empirical realities that will devise effective measures for minimising people's exposure to harm. If the vulnerabilities of disability are normalised, for example, we are more likely to be motivated to

examine in detail exactly which social, cultural, and political responses ameliorate rather than exacerbate them.

The consequences of conceptualising disability as a special kind of vulnerability are extensive and ambiguous. One of them is that vulnerable groups are, ironically, always prone to being caught in a vicious circle of negative responses to the presence of the vulnerable. As I mentioned briefly earlier, the idea of vulnerability trails a host of predominantly toxic associations, which trigger some well-characterised (though considerably less well-understood) discriminatory social responses. Disability theorists have argued that the prejudice, hostility, and scapegoating of disablism is largely driven by the unconscious need on the part of the nondisabled to disavow the embodied vulnerability of every human life (Shakespeare 1994; Marks 1999). Such disavowal, reinforced by the conceptual segregation of disabled people into a category marked *especially vulnerable*, significantly increases the risk that they will be seen as radically *other* to normative citizens: more dependent, more of a burden, less able to argue for their dependencies to be treated just like the dependencies of everyone else, and more easily jettisoned when times are hard.

Extending the coverage of ontological vulnerability as I suggest is not without its own drawbacks. Paradoxically, there is a real risk that *mainstreaming* the vulnerabilities of disabled people as normal will simply allow them to slide out of view and off the political agenda. The vulnerabilities of a mobility-impaired person may be ontologically no different from those of someone with standard mobility. Nonetheless, in practice, this particular manifestation of ontological vulnerability requires accommodations that in today's societies are not routine. They still demand conscious efforts of moral and political will to ensure they are planned, budgeted for, and implemented. Therefore, there is a fine balance to be struck between failing to pay adequate attention to the particular manifestations of universal dependencies and vulnerabilities and focusing on them so much that some people are hived off into special categories that lend themselves to social and political marginalisation.

A person's vulnerability is clearly not just to do with the individual mental and physical endowment she brings into the world. Although human vulnerability is universal, long entrenched contours of power and privilege will place resources differentially at her disposal by virtue of her social position, and this determines when the effects of vulnerability will be experienced and to what degree. The structural features of social and political life that shape people's vulnerabilities have traditionally been considered to fall outside the remit of research ethics and medical ethics, which have paid more attention to the ethical consequences of power arrangements in the individual patient–health-care provider or participant–researcher dyad. One conclusion to be drawn from this discussion, then, is that a broader perspective helps pose both analytically useful and ethically essential questions (e.g., Where does disabled people's vulnerability really lie? Who decides which dependencies are to be taken for

granted?). Turning a critical eye on the concepts of dependence and autonomy and their relationship to vulnerability within the context of disability may be helpful in retheorising vulnerability and its ethical meaning generally. More practically, it can open the way to a broader repertoire of responses that can mitigate the vulnerabilities intrinsic to all human life.

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Moral Responsibility for Coerced Wrongdoing: The Case of Abused Women Who “Fail to Protect” Their Children

Marilyn Friedman

Women in abusive relationships are highly vulnerable to coercion by their abusers in a variety of ways. This essay explores one way the moral agency, in particular, of an abused woman with children might be compromised by the abusive relationship. The cases in question involve women whose children are also being abused by the same man who is abusing the woman. Courts have sometimes charged such women with “failure to protect” their children from this abuse and have sometimes penalized the women more harshly than they have penalized the male abusers. This essay considers three ways of assessing what the women are doing so as to regard them as having diminished responsibility for the abuse inflicted on the children: justification, exemption, and excuse. My conclusion is that, although the women’s actions are not typically justified and the women are not typically exempt from moral responsibility altogether, nevertheless the women should usually be understood as excused for failing to protect their children from abuse because of the difficulty of resisting the abuser’s threat of further harm.

Who can forget Joseph Raz’s (1986) disturbing picture of his imaginary “Hounded Woman”?:

A person finds herself on a small desert island. She shares the island with a fierce carnivorous animal which perpetually hunts for her. Her mental stamina, her intellectual ingenuity, her will power and her physical resources are taxed to their limits by her struggle to remain alive. She never has a chance to do or even to think of anything other than how to escape from the beast. (P. 374)

¹ I am grateful to Andrea Winter for introducing me to this issue.

The Hounded Woman is one of Raz's examples meant to illustrate how someone can be denied autonomy if they lack an adequate range of options. The Hounded Woman's options are inadequate because they are "all potentially horrendous in their consequences" (*ibid.*). She has no chance to develop long-term projects or to exercise the varied capacities with which most human beings are endowed. She is forced to choose between "survival and death," which is not really a choice at all (p. 376).

Raz's (1986) example brings out the way a person can be highly vulnerable to threats and coercion. Autonomy and well-being are both undermined by situations that block someone's attempt to pursue the projects and relationships that matter to her. This is especially so in situations in which someone's very life is at stake. Agency itself may suffer. Raz writes that, in that sort of case, a person's "choice is dominated by the need to preserve the life he has.... Whenever one is forced into a coerced choice, even if yielding to it is not justified it is excused by the fact that the agent's life is put in the balance" (pp. 376–377).

Raz's (1986) Hounded Woman resembles a woman who is the victim of domestic violence. It is not too much of an exaggeration to say that a battered or abused woman, too, shares a limited space with an "animal" that "perpetually hunts for her." She, too, must use all her resources to avoid his wrath. She, too, may have to think all the time about how to survive. Not only is an abused woman vulnerable to being harmed directly, physically or psychologically, by her abuser. She is also vulnerable to his coercive influence on her moral agency. The fear of physical injury or psychological attack by her abuser can lead an abused woman to do things that are wrong, things she might not otherwise do.

In particular, an abused woman who has children is vulnerable to being coerced by her abuser into doing wrong to her children. The wrong I focus on here is that of "failing to protect" her children from abuse by the same man who is abusing her. Perhaps an abused woman fails to protect her children because the abuser explicitly threatens her. Or perhaps she just knows tacitly what he might do if she attempts to stop him. While such fears are understandable, this does not help the children, who are usually more vulnerable to harmful abuse than their mothers. This chapter is about those complex relational networks of vulnerability and the degree to which abused women in such situations are responsible—or not—for what they do.

In section 1, I set out the problem of failure to protect. In section 2, I explore the vulnerability of abused women who fail to protect their children against abuse by the same abuser. Section 3 reviews the gender asymmetry in the legal treatment of failure to protect. Section 4 outlines three concepts that are relevant for denying that someone is morally responsible for wrongdoing: exemption, justification, and excuse. Sections 5, 6, and 7, respectively, explore the relevance of these concepts to cases of abused mothers who fail to protect their

children.² My conclusion, in section 8, is that excuse is the relevant category for understanding abused women who fail to protect.

The focus here is on moral understanding rather than legal analysis, but legal analysis can sometimes provide a useful model for moral understanding in these failure-to-protect cases.

1. Failure to Protect

Under U.S. law, child abuse can take two forms: the *commission* of actual abuse; and the *omission* of failing to protect from harm a child for whom one has a legally recognized special responsibility (Skinazi 1997, pp. 994–995).³ Parents are the ones most commonly held legally responsible for protecting their children against harm that is inflicted by other persons. Here is legal scholar Heather Skinazi's description of a typical failure to protect case. A trial court in the state of New Mexico in the United States:

convicted Jeanette Williams for failing to protect her four-year-old daughter, Quenetta, from physical abuse by Jeanette's husband. When the abuse took place, Jeanette was five-months pregnant with a second baby and she had been beaten by her husband. He threatened Jeanette's life—and that of Quenetta—if Jeanette interceded. Although Jeanette [herself] did not abuse Quenetta, the state appellate court affirmed her conviction, reasoning that “even if [she] could not stop her husband, this did not prevent her seeking help.” (p. 994)⁴

Legal scholar Jeanne Fugate (2001) describes a case that took place in Wyoming in 1995. A woman named Casey Campbell came home from work one day to find that her daughter, who had been in the care of Casey's live-in boyfriend, Floid Boyer, now had serious burns. Floid said he had “tripped and spilled coffee” (p. 273) on Casey's daughter but this turned out to be a lie. Casey “did not seek medical care at that time because she was afraid to provoke her boyfriend... who had abused her extensively in the past” (ibid.). Instead, Casey and Floid went out to play darts. They returned at 2 a.m. At that time, Casey took her daughter to the hospital, where the physician who treated the daughter contacted the police. Casey was eventually convicted of felony

² The discussion in section 7 draws on Skinazi (1997).

³ My essay will deal only with U.S. law, although similar issues may arise in other countries as well. The shortened expression *failure to protect* will be used as a shorthand for *failure to protect one's child(ren) from abuse* and, depending on context, may also include the idea that the abuse is by the same man who is abusing the mother.

⁴ The case in question is *State v. Williams*, 1983, New Mexico Court of Appeals. Skinazi quotes from p. 124.

child endangerment (Wyoming's equivalent to a felony-level failure to protect) whereas Boyer, "the actual abuser, was convicted of only a misdemeanor..." (ibid.).⁵

According to theorist Rebecca Ann Schernitzke (2000, p. 55), there are generally three types of failure to protect by mothers:

- (1) A mother was "present when the abuse occurred and took no action to prevent it."
- (2) A mother "left the child alone with the abuser, despite having knowledge that the abuser had harmed the child in the past."
- (3) A mother "discovered the child's condition after abuse occurred but failed to seek medical attention for the child."

These actions are all *prima facie* wrong. However, the crimes are complicated when committed by women who are themselves abused by the same men who threaten the children. Of course, not all women who are convicted of failure to protect are themselves abused or intimidated by the same men. This chapter focuses only on cases of abused women who fail to protect their children as a result of being abused themselves by the men involved.

Acts of failure to protect children from abuse fall along a continuum. The harms to children range from mild to life-threatening. The actions needed to protect children from abuse range from easy to superhuman. It might be difficult to judge where a particular instance of failure to protect falls on the continuum. Mild harms to a child that can be stopped only with superhuman effort might not warrant legal sanctions at all. I shall disregard borderline cases of failure to protect and focus on cases in which the harm to the child is serious and the protection needed to shield the child does not require superhuman effort by an average (but nonabused) mother. When a (nonabused) mother fails to protect her children from abuse under those sorts of circumstances (or worse), she is *prima facie* morally responsible (and possibly also legally responsible) for this failure.

How does the moral situation change when the mother is abused by the same man? An abused mother is herself a victim. The coercive pressures that abused mothers face raise a question of whether they are helpless victims rather than morally responsible agents under the circumstances. A woman's past relationship with an abuser may give her very good reason to fear him and to worry about what he might do if she intervenes in his treatment of her children. The abused woman's behavior seems to result from the man's power over her. His power over her may coerce her into not interfering with what he

⁵ The case in question is *Campbell v. State* 2000, Supreme Court of Wyoming. The crime of *felony child endangerment*, in the state of Wyoming, takes a variety of forms, for example, to "knowingly or with criminal negligence cause, permit, or contribute to the endangering of the child's life or health by violating a duty of care, protection or support" (Wyoming Statutes, 6-4-403, a(ii)).

is doing. With him around, she is always thinking about safety and survival, like Raz's Hounded Woman.

If a woman has impaired moral agency, then she might not be capable of being a good enough mother. In that case, perhaps her children should be taken out of her custody. A conviction for failing to protect can lead to this outcome. Fugate (2001) writes that "a finding of failure to protect... may be used in a family court proceeding and may lead to the termination of parental rights, where the court severs the legal tie between parent [i.e., mother] and child to protect the child's best interests" (pp. 277–278).

Thus, serious moral and legal implications may follow from being, and being judged to be, morally incompetent as a parent. It is crucial to gain a proper understanding of failure to protect by mothers who are themselves abuse victims.

2. Vulnerability, Coercion, and Moral Agency

Vulnerability has external and internal dimensions, as Doris Schroeder and Eugenijus Gefenas (2009, p. 117) observe. Externally, it suggests some specially identified conditions that might harm a person from the outside, as it were, conditions other than the agent herself, for example, a violent domestic partner. Internally, vulnerability suggests that the person is not fully able to protect herself from the harm in question because she lacks either the necessary capacities or the relevant means for doing so. Vulnerability is thus openness to a specified harm against which one is not fully capable of defending oneself.

In biomedical ethics, vulnerability is a special issue when determining someone's medical care. A person, for example, who is not capable of giving genuine consent or understanding her medical options is vulnerable to the harm of being persuaded to consent to care she should not receive. Vulnerability is also a special issue in medical research, where people may be vulnerable to being exploited as guinea pigs with no resulting benefit to themselves. In these sorts of situations, a vulnerable person may be unable to act at all or may act in a way that leads to her own harm. In the biomedical context, however, the question of the vulnerable person's responsibility for harming someone other than herself typically does not arise.

By contrast, in failure to protect cases involving abused mothers, the question at issue is precisely that of the vulnerable, abused woman's moral agency and responsibility for her actions toward others, in particular her children. As parenting agents, women are (presumed) capable of taking ordinary responsibility for the well-being of their children. In addition, they are socially held accountable for taking all reasonable measures and some extraordinary measures to promote that well-being. However, when the mother, too, is abused,

she experiences a coercive force on her that may well limit her ability to care for the vulnerable children who depend on her for their protection.

Eva Kittay (1999) explores how coercion can force people, usually women, into caregiving roles and relationships they would not otherwise enter (pp. 59–64). In failure-to-protect cases, however, the voluntariness of the mother–child relationship is not in question. What matters is the mother’s ability and determination to care for her child. When the child abuser also abuses the child’s mother, the mother’s ability or determination to protect her child may be undermined. She might not act to protect her child in the way she is expected to do or wants to do.

Abused mothers are caught in the middle of asymmetric, three-part vulnerability complexes. On one side are the most vulnerable members of the relationships: the children. They are vulnerable both to abuse by the men in their domestic lives and to their mothers’ failure to protect them against abuse by those men. On the other side are the men who abuse both the women and the children. In the middle are the mothers, who presumably want to protect their children from abuse but are themselves vulnerable to and coerced by the same men who threaten their children. These complicated relational triangles raise questions about the moral responsibility of the mothers. First, however, a comment on the gender asymmetry of failure to protect law.

3. Gender Asymmetry

Failure-to-protect laws are couched in gender-neutral terms, so theoretically they hold both male and female parents responsible for protecting their own children. Yet according to Fugate (2001), in actual legal cases, nearly all the defendants charged and convicted with failure to protect are women (p. 274). It may come as no surprise that in many such cases the male abuser of the child is not convicted of any crime at all or is convicted of a lesser crime than the woman, say, a misdemeanor instead of a felony.

Fugate (2001) attributes this discrepancy to the far higher social expectations imposed on women compared to men in parenting and child care (p. 274). This expectation is more than simply a widespread social attitude. According to Carolyn Hartley (2004), it also arises specifically among child welfare workers, who are often the professionals at the front line of intervention into child abuse cases. Child welfare workers often hold mothers responsible for abuse suffered by children, whether or not the mother was the agent of the abuse and whether or not she is herself an abuse victim (p. 374).

This bias may be indirect rather than direct. Mothers are far more likely to be daily caretakers of children than are fathers and are therefore in more proximity to their children than fathers more of the time. Mothers are thus

far more likely to be positioned to protect their children from abuse than are fathers. So long as mothers spend more daily caretaking time with their children than do fathers, mothers will have more occasions on which they can fail to protect their children than will fathers. The greater maternal conviction rate for failure to protect thus tracks the more extensive parenting role that women in fact play. This situation still involves a bias, namely, the expectation that mothers should handle a larger share of daily child caretaking than fathers. A completely bias-free ideal would involve holding all parents to the same standard of responsibility for child care.

Yet recognizing gender bias in current practices does not entail that mothers have *no* duties under current conditions to protect their children from abuse. In the context of childcare, whoever is the custodial caretaker has a strong *prima facie* responsibility to protect the child from abuse by other persons. Childcare practices may need to be changed, but whatever they are at any time children depend on the care of those who are held responsible for it at that time. If these caretakers do not protect the children assigned to their care, it is unlikely that anyone else will do so. Failure to protect children for whom one has a specially assigned caretaking responsibility, as noted earlier, is a *prima facie* wrong. This presumption applies equally to fathers and to mothers. Fathers who fail to protect their children are just as wrong, *prima facie*, as are mothers.⁶

However, this chapter deals only with mothers who fail to protect, not fathers. There are at least two reasons for this focus. First, as noted already, mothers are convicted for this offense more often than fathers. Second, women are more vulnerable than men to domestic abuse that is severe enough to coerce them into changing their behavior as moral agents, including their parenting behavior.

As a side note, I take it to be obvious that the law should punish more severely the actual abuser of the child than the woman who simply fails to protect the child against the actual abuser.⁷ Yet even if the abuser were punished more severely than the mother who fails to protect her children, this does not mean that a mother's failure to protect her children is not wrong.

4. Justification, Exemption, and Excuse

Responsibility is a matter of degree. Some special considerations may reduce the degree of a woman's responsibility for her failure to protect her children. Abuse by the same man who threatens her children seems to be one of those

⁶ If fathers fail to protect as a result of coercion by the same abuser who threatens the children, the following discussion would apply to them as well.

⁷ My generalization allows for the possibility of exceptions, but I expect them to be rare.

factors. Some familiar conceptual resources can be used to deny or qualify someone's moral responsibility for a *prima facie* wrong she has committed.

Three such concepts are justification, excuse, and exemption. Here is how these terms will be used in this chapter.⁸ A wrongful action is *justified* if, despite being *prima facie* wrong in some way, it is nevertheless the best thing to do, all things considered, under the given circumstances. It is the lesser of two or more evils. Wounding someone because it is necessary to stop them from killing a third party would be an example of a seemingly wrongful but actually justified action. It would be the lesser of two evils. When a person does something that is *prima facie* wrong but is justified all things considered, then we should not blame her for the wrong that was part of what she did. She did the right thing overall, perhaps under difficult or ambiguous conditions. A justification changes our understanding of what an agent did.

By contrast, an *excuse* for a wrongful action acknowledges that the action was wrong all things considered under the given circumstances. An excuse cites conditions that made it nevertheless very difficult motivationally for the agent to avoid doing what she did. One might be driven, for example, to kill someone who innocently threatens one's own life, such as a mentally deranged person who is randomly firing a gun. The will to live can lead people to fight desperately to save their own lives, even when they have to kill an "innocent aggressor" who is not morally culpable for being a threat and does not deserve to die. Where a justification changes our understanding of the action, an excuse changes our understanding of the agent's *motivation* for what she did by citing motives that would be very difficult for an ordinary person to resist under the circumstances.

Knowledge of someone's motives for a *prima facie* wrongful act may either excuse or justify the action. It depends on what the agent's motives reveal about the action. If they reveal that the action is not wrong all things considered, then the motive helps to justify the action. If they reveal that the action is what it appears to be but was extremely difficult or nearly impossible for the agent to resist doing under the circumstances, then they do not, as such, justify the action. They do not show it to have been the right thing to do all things considered. However, an action that is nearly impossible to resist doing is a strong candidate for being properly excused.

In contrast to both justifications and excuses, an *exemption* changes our understanding of the agent. An agent is exempt from moral responsibility for a particular action if she is in a condition that generally makes her incapable of meeting the requirements for moral competency. These requirements

⁸ I draw these concepts from both moral and legal analysis. There is a debate in legal analysis over whether there are three categories of criminal defenses (justification, excuse, and exemption) or only two (justification and excuse); see Tadros (2005, p. 116). I do not enter that debate although I prefer the more fine-grained conceptualization permitted by using three categories.

are mainly two: first, some minimal understanding of what is morally right and wrong and how these concepts apply to actual situations;⁹ and, second, some minimal capacity to be motivated to act according to that understanding. Extreme youth and various mental illnesses would be examples of conditions that exempt someone from moral responsibility for her actions. People who lack either or both of the capacities for moral competence should not be blamed or held responsible for what they did wrong.

The question now is this: Do any of these concepts apply to abused women in a way that relieves them of moral responsibility for failing to protect their children from harm by the same abusers who are abusing the women? Can we gain greater understanding of abused mothers by using these concepts as lenses to explore how abused mothers are vulnerable to being coerced into failing to protect their children?

I will take the three concepts in this order: first, exemptions; second, justifications, and third, excuses. I will suggest that the first two of these concepts may be useful in some circumstances for understanding abused mothers who fail to protect their children, but they also have limitations. The concept of *excuse* seems generally the most useful of the three for failure to protect cases.

5. Exemptions?

One approach to understanding abused mothers who fail to protect their children is to consider the women's backgrounds and the conditions of their character formation. Claudia Card (1996) and Lisa Tessman (2005), among others, emphasize the character damage that can result from living under abusive and oppressive conditions. Abused women may have been exposed to domestic violence at early ages and may have suffered abuse as children. They may have been raised in households in which violence and abuse were taken for granted and in which women and children were often the victims. If these women suffered character damage from their upbringings, then it may be appropriate to think of them as *exempt* from moral responsibility for their failure to protect.

Domestic abuse often occurs in a societal context in which it is sanctioned as part of female subordination. Societal norms can combine with individual male excesses of strength and aggression to make intimate heterosexual relationships dangerous for women. A woman can feel that she is subordinated to her stronger, more aggressive male partner and feel that she is obligated to obey him, that he is her superior, that he is legitimately in charge of her, that

⁹ As is well-known, judgments of moral right and wrong are often widely debated matters. If the requirement of moral understanding is to have practical usefulness, it needs to be qualified and limited. One possible way to do so is to require that someone understand what is morally right and wrong only in matters on which there is general and widespread moral agreement.

her refusal to comply with his requests or orders would be wrong, and that he has legitimate power to sanction her for noncompliance (see, e.g., Dutton & Painter 1981).

In addition, when an abused woman needs to protect her children from the same man who abuses her, this is often because they are all living together in an ongoing domestic relationship. These are often cases in which the abused woman continues to stay with her abuser despite the abuse. Much ink has been spilled over attempts to explain why some women stay with men who abuse them.¹⁰

Lenore Walker's (1984) concept of battered woman syndrome, which employs Martin Seligman's (1975) concept of learned helplessness, is an attempt to explain the behavior of chronically abused women. The concept of battered woman syndrome gained notoriety from being used in court cases in which abused women were charged with having murdered men who had engaged in long-term abusive behavior toward the women. The accused women had to explain why they had remained in those abusive relationships for long periods of time instead of simply leaving.

The concept of battered woman syndrome appears to explain why a woman remains in an abusive relationship. A battered, or abused, woman becomes so traumatized by the intermittently harsh behavior of her abuser that she becomes incapable of actively trying to protect herself. Being abused over time makes a person demoralized and passive. Remaining in an abusive relationship is the passive reaction of a demoralized woman. In particular, she becomes incapable of recognizing safe opportunities to leave. If true, this would be a severe psychological problem. Someone in such a state would not be capable of protecting herself, let alone protecting others. She would have a kind of chronic moral incapacitation.

However, the concept of battered woman syndrome has come under a great deal of criticism recently. For one thing, in the criminal trials of abused women who finally killed their abusers, the defense would have to explain how a demoralized, traumatized, and passive woman would rise up and *kill* her abuser, a very active sort of behavior. If she was actually capable of killing in self-defense, why hadn't she been capable of simply leaving the house (see Downs 1996)?

Perhaps most importantly, the concept of battered woman syndrome conflicts with a great deal of evidence showing that abused women do tend actively to try to defend themselves and their children much of the time. There is a good deal of evidence that abused women frequently seek help from various sources: police, courts, social work professionals, religious professionals, friends, and family. Abused women seem to get very little help from most of

¹⁰ See my discussion in Friedman (2003, pp. 140–159).

these sources, especially the professionals. Social researchers Edward Gondolf and Ellen Fisher (1988, Chapter 2) suggest that the people who are *really* suffering from learned helplessness are the professionals.

In addition, there are grave risks in regarding abused women as morally incompetent and generally exempt from moral responsibility. An exemption from moral responsibility, as defined here, is a holistic notion that covers a person in a general way. It is not simply like an excuse, which covers someone's action on a particular occasion. If someone should be exempt from moral responsibility for one specific action because her overall character is damaged, it is harder to say she is a morally competent agent in other contexts. In addition, the judgment of moral incompetence poses a practical problem for abused mothers who fail to protect their children. As noted earlier, if they are found legally unfit to parent, they may lose custody of their children.

The concept of vulnerability can shed light on whether to regard abused women as exempt from moral responsibility because of moral incompetence. Recall that vulnerability, as treated here, is openness to a specified harm against which one is not fully capable of defending oneself. Externally, this means there are circumstances that threaten harm to the vulnerable person. To be threatened with harm is not, as such, a moral failing. Internally, vulnerability means someone is not fully able to resist the harm. Inability to resist could be partly a matter of lacking the relevant capabilities and partly a matter of lacking access to the means of resistance. A woman could be vulnerable to the harm of domestic abuse without being morally incompetent at all. The abuse could be severe and persistent; the woman's physical and psychological capacities to resist assault could be weak through no fault of her own; and the abuser might actively block the woman's options for escape or threaten retaliation. Her responses to the abuse could be rational reactions to her limited options, as in the case of Raz's (1986) hounded woman.

Thus, there is no good reason to generalize that all abused mothers who fail to protect their children are so morally damaged by abuse that they are unfit to raise children. Granted, *particular* mothers might be this badly damaged by histories of abuse. However, we should reach this conclusion only about particular cases and based only on solid evidence in those cases.

6. Coercion as Justification?

Perhaps the concept of *justification* applies to women who fail to protect. Perhaps failing to intervene to protect her child is justified as a better alternative than intervening. If this is so, it must be because by intervening the mother would make things even worse. The abuser may explicitly threaten more harm if she intervenes. Or, even without any such warning from the abuser, the woman may know the abuser well enough to recognize that her

interference with his actions would prompt him to become more violent than otherwise. An abused woman tends to develop a heightened awareness of the wants and desires of her abuser as a way of anticipating his demands so as to diminish his violent reactions (see Ferraro 1997, pp. 128–129). In either case, the woman would have a very good reason to refrain from trying to stop a man from abusing her child. If her nonintervention would lead to less harm than her intervention, then she would be justified in not intervening.

Note, however, that if a woman refrains from intervening because this will reduce the harm to her child, the woman is not failing to protect at all. In that case, a woman would be doing all she could do to protect her child from a more severe outcome that could occur. Her nonintervention would protect her child better than would intervention.

This sort of situation, however, does not seem to occur in all failure to protect cases. Recall that, in some cases of failure to protect, the abuse has already occurred and the mother's failure is not that she did not intervene to stop the abuse but that, after finding her child injured, she did not immediately seek medical care for the child. If the abuser is no longer abusing the child, it seems that the mother would be free to obtain medical care.

Yet even those cases can be more complex than they seem at first sight. Even when the abusive incident is over, the mother may still chronically fear the abuser and worry that anything she does might antagonize the man and prompt a new flare-up of his temper. A peaceful interlude for an abusive person can be a fragile peace. For example, there was some testimony at Casey Campbell's trial suggesting that, even though her boyfriend, Floid, was no longer abusing Casey's daughter when she came home from work, nevertheless she did not get medical attention right away for her daughter because she feared provoking Floid, given his *history* of abusiveness. Depending on the circumstances of the case, Casey may have had good reason to fear still more violence from Floid.

At least four factors seem relevant to determining whether fear of greater violence by the abuser justifies an abused mother in failing to protect her child:¹¹ (1) severity of the abuse; (2) eventual cessation of abuse; (3) available exit options; and (4) the target of the possible increase in abuse. First, severity of the abuse: if the abuse of the child is especially severe, a mother should take greater risks than otherwise to protect her child. Her fear that the abuser will become even more violent toward the child is no longer a justification for not intervening if the abuser is already severely violent toward the child. Second, eventual cessation of the abuse: once the abuse ends, a mother's fear of renewed violence by the abuser wanes over time as a justification for not seeking medical help.

¹¹ Thanks to Catriona Mackenzie and Wendy Rogers for suggesting the first three of these factors.

Third, available exit options: there is always the haunting question, noted earlier, of why the mother has not left the abusive relationship (see Friedman 2003, pp. 140–159). In brief, women may have good reasons to stay in chronically abusive relationships, including reasons that serve the interests of their children. For example, a woman may lack her own income and be unable to support herself or her children on her own. Or the abusive man may be the child's actual father and the mother might want to preserve (and work to improve) that relationship. Or a woman may fear that if she is the one to leave an intact family setting, she will lose custody of her children in a legal custody battle with the children's father. Or, very importantly, a woman may fear retaliatory violence by the abuser against her or her children were she to leave (see, e.g., Mahoney 1991, especially pp. 53–71). If a woman has reasons that justify her having remained in the abusive relationship, then her having remained does not diminish any justification she might have for failing to protect her children against further abuse.

A fourth factor that is relevant to whether an abused woman is justified in failing to protect is the target of the possible increased abuse: who does the woman believe will be harmed by the feared increase in violence? There are two possibilities. The mother's predominant concern could be that her intervention will lead to more harm to the child, or the mother's predominant concern could be that she herself will suffer as a result of her intervention.

The most clear-cut cases in which failure to protect is actually justified are cases in which the woman has good reason to fear that her intervention will provoke the abuser into harming the *child* even further or harming third parties such as other children who are present. Of course, a woman may act to protect *both* her child and herself from harm or from more severe harm. In the confusion of the moment (the "fog" of domestic violence, we might call it), it is often hard to say for sure who is in danger. But the important point is that, so long as the woman acts (with reason) to reduce harm to her child, her non-intervention is justified. It is justified because it benefits the child under the given circumstances, someone whom the mother has a moral duty to protect.

In the abstract, it is not implausible to think that a mother might also be justified in case she permits one child to be abused to protect another, more vulnerable child. This sounds like a classic case of a hypothetical dilemma. A mother has two or more children who are threatened with abuse by the same man and has the strength and time to protect only one; which one should she fail to protect? Without specific details about an actual case, it is hard to say anything about such imagined dilemmas with strong conviction. The details will surely matter. However, in the abstract, a utilitarian guideline is not amiss: the mother should protect the child who is most vulnerable to harm. The circumstances of forced choice justify the mother in choosing to fail to protect the stronger child, the one who is more able to fight back on his or her own against the abuse.

It is not so clear that a woman is justified if she fails to protect her child only because she fears the abuser would harm her. A woman who fears for her own safety certainly has *a* reason to refrain from protecting her child from an abuser. This reason is also quite understandable. It is the reason of self-protection. The question is whether protecting herself by itself is a good enough reason for a woman to be *justified* in failing to protect her child.

This question raises gender issues that were broached earlier. Women are expected to sacrifice themselves for their children to a much greater extent than are men. This expectation was expressed publicly in the 1980s in a case of domestic violence in New York City that shocked the United States. A woman named Hedda Nussbaum, who was viciously abused by her husband, Joel Steinberg, failed to protect their young daughter from abuse by Joel. The case came to light only after it was discovered that Joel had finally killed the girl following a long period of severe abuse in which Nussbaum apparently did nothing to protect her daughter (see Jones 2000). Heather Skinazi (1997) quotes a letter to the editor of the *Los Angeles Times* that probably expressed the sentiments of many Americans about that case. This letter writer asserted, "A mother protects her child against all odds—I don't care if that mother is battered to a pulp" (Hazard 1989, cited in Skinazi, p. 1003).

The Nussbaum–Steinberg case was extreme. Joel *murdered* their daughter. Nussbaum's failure to protect was in no way justified. I refer to this example simply because the letter writer expresses a social expectation for mothers that seems universal in its scope. It is unusual to hear fathers being held to such high general standards of protective childcare.

Is the standard to which we now hold fathers the one to apply to both parents? Should neither parent be expected to protect the children if it means being "battered to a pulp"? There is surely something wrong with this suggestion. It involves relaxing our standards for protecting children against abuse. This seems unacceptable. Children are among the most vulnerable members of human societies, and especially so in intimate settings that are seldom publicly policed. Being battered to a pulp is a distracting metaphor, but it is not excessive to expect all parents to risk *serious* harm to themselves to protect their children from abuse. The law is wrong to be so lax in applying this standard to fathers. The best ideal holds all parents highly accountable for protecting their children.

Under ideal conditions of accountability, any parent who fails to protect her child simply to prevent harm to herself would be justified in doing so only if the harm to herself would be much worse than the harm she could prevent to the child. How much worse the harm to herself needs to be must be decided in the context of particular cases with all relevant circumstances considered. If the harm a parent fears to herself is not a lot worse than what her child will suffer, then her failure to protect her child is not justified.

To summarize this section: an abused mother is justified in failing to intervene to protect her child from abuse if she has reason to fear that her intervention would lead the abuser to harm the child more severely than otherwise. She may also be justified if she fears the abuser will harm her much more severely than the child. However, any justification is diminished or eliminated if the harm to the child is already very severe or if the mother does not seek medical care for the child even when she could do so safely or could have safely exited the abusive relationship at some prior time.

With all these qualifications, abused mothers are not often going to be justified in failing to protect their children. This is not the end of the matter, however. Even if a woman's failure to protect is not justified, perhaps it should nevertheless be excused. This is the last option to consider.

7. Coercion as Excuse?

I have suggested elsewhere that women are vulnerable to being dominated by men partly because social norms sometimes make such domination morally acceptable and partly because men are bigger, stronger, and more aggressive on average than women.¹² These excesses enable men on average to make credible threats of violence toward women and these threats can coerce women into doing what the men want them to do.

In determining whether an abused woman is responsible for failing to protect her child, it is crucial to consider the history of interaction between the woman and the man. The woman has suffered abuse from the same man and is likely to feel herself threatened by him. This shapes how she responds, what she expects from him, and what she thinks the chances are that he will escalate his level of violence. The incident of failing to protect should not be disconnected from that history.

Domestic abuse can include physical assault and battery, emotional torment, financial control, and sexual domination (see, e.g., Ptacek 1997, pp. 109–111). Domestic abuse denies safety and security to a woman in her own home, possibly leaving her nowhere to turn for protection. The constant threat it poses may force a woman to develop a heightened awareness of the abuser's desires, whims, and moods as a strategy for anticipating his demands and minimizing his violent reactions. She may develop habits of placating him and ignoring her own deepest values and concerns. In the most extreme cases, the victims of domestic abuse are like kidnapped hostages and are in mortal danger (see, e.g., Ferraro 1997; Graham, Rawlings & Rimini 1990, pp. 223–224).

Domestic abuse may thus be severely coercive. If an abused woman fails to protect her children under such coercive circumstances, she may be able

¹² See my discussion of this problem in Friedman (2005).

to defend her criminal actions by using the legal defense known as *duress*. According to the defense of duress, a defendant admits to having committed the crime for which she is charged but claims that it was done as a result of coercion by a third party (see, e.g., May 2007, p. 281). Could this legal concept provide a model for excusing an abused woman from *moral* responsibility, in whole or in part, for failing to protect her children from the same abuser?

The Model Penal Code of the United States outlines that the defense of duress is used to claim that the defendant engaged in the alleged criminal action “because he was coerced to do so by the use of, or a threat to use, unlawful force against his person or the person of another, which a *person of reasonable firmness in his situation would have been unable to resist...*” (cited in Wertheimer 1987, pp. 152–153, emphasis added). Courts have required defendants using the duress defense to have “acted under the apprehension of *immediate and impending death or of serious and immediate bodily harm*” (ibid., pp. 154–155, emphasis added). It is noteworthy that many court cases in the United States bar duress as a defense to *murder* (ibid., p. 155). Alan Wertheimer suggests that this is because duress is being construed legally as a *justification*. In the eyes of the law, the threat of one’s own death does not justify murdering another person.

Wertheimer (1987) defends the idea that avoiding harm to oneself, *by itself*, counts as a very good agent-relative reason¹³ for someone to do something. In Wertheimer’s view, it is perfectly legitimate for someone to weigh her own interests more heavily than those of other persons in the abstract, and in this light someone who is being coerced has excellent agent-relative reasons to do what she is being coerced into doing (p. 167). Wertheimer would count a defense of duress in such cases as a justification of criminal wrongdoing.

However, Wertheimer’s reasoning does not take account of the special duties a coerced person might have to protect certain others, such as her children. The crime the agent commits under coercion might be that of failing to protect her own child from abuse.¹⁴ The agent-relative reason to avoid harm to herself must be balanced against an equally, if not more compelling, agent-relative reason to protect her own child from abuse.

In cases in which the woman fails to protect her child because she fears harm only to herself, what if duress were regarded as an *excuse* rather than a justification? Even if the woman’s action was not the lesser of two evils and was *not* the best thing to do, all things considered, for the child under the circumstances, the woman may have nevertheless acted from a powerful motivation such as self-protection. Nearly all individuals are concerned with their own protection, including especially the ordinary, “reasonable persons” who

¹³ On the concept of agent-relative reasons, see Nagel (1980).

¹⁴ Of course, the abusers have the duty to avoid abusing children. This holds regardless of what we think the mothers should have done.

are the touchstones of so many legal opinions. An abused woman's relationship to her abuser makes her especially vulnerable to the threat of his abusiveness, so it intensifies her concern with protecting herself. The threat to the woman might be so severe that an ordinary, reasonable person would have a difficult time resisting the motive of self-protection under those fearful conditions. Great vulnerability to abuse under the circumstances might make it harder for someone to act protectively on behalf of someone else, even a child whom she has the responsibility to protect. Is this greater difficulty of acting to protect her child not relevant to excusing a mother's failure to protect?

Yet qualifications are needed immediately. Wertheimer (1987) writes that the defense of duress "seems to depend on *some* sort of balancing of interests" (p. 158). In the cases in which the defendants use the duress defense, the courts tend to use consequentialist reasoning to weigh competing harms. In those cases, writes Wertheimer, courts have called for juries to be charged "to balance the gravity and imminence of the *threatened* harm (along with the possibilities for escape, resistance, or seeking official help) against the seriousness of the *crime*..." (ibid.).

Thus, if an abused mother claims she committed the crime of failing to protect her child from abuse because she feared harm to *herself* by that abuser, the courts would probably ask which harm would have been worse. A woman would not have a good excuse if she failed to protect her child against burns or broken limbs merely to save herself from being punched in the arm. The harm the woman is averting to herself has to outweigh quite *substantially* the harm she allows the abuser to inflict on her child. But if that condition is met, then we have the makings of an acceptable *excuse* for failing to protect one's child, even if it is not sufficient to justify that failure.

This is not to say that such an outcome is a happy one. There are moral remainders in such complicated cases. A woman (or man, for that matter) should feel great regret whenever her motive of self-protection is so strong that it moves her to allow her child to be hurt even to a lesser degree than she avoids to herself. A parent should not casually permit her child to be harmed just to protect herself. As well, anyone, whether professionals, relatives, or friends, who contributes to a woman's vulnerability to abuse should feel regret for having done so. In addition to causing direct harm to the woman, this vulnerability constrains her moral agency and may impede her capacity to care for the children who depend on her for protection.

8. Conclusion

Holistic *exemptions* from moral responsibility might fit some cases, such as those of abused women who genuinely suffer from learned helplessness and who react passively to intimate danger because they have lost the capacity to

protect both themselves and their children. Yet evidence suggests that this interpretation does not apply in general to abused women. Judging that it applies to a particular woman requires positive evidence of moral incompetence on her part.

Some women who fail to protect their children might be justified in what they do. These would be cases in which the women's intervention would make things worse for the child. Like Raz's (1986) Hounded Woman, an abused woman may have to cope continually with an animal that relentlessly threatens the well-being and very survival of herself and her children. Sometimes the choice of no harm at all to one's child is simply unavailable. Under these conditions, a *seeming* failure to protect may actually be the best protection a woman can provide.

Nevertheless, even if abused women are not justified, there might be good reason to *excuse* them from moral responsibility for failing to protect. These are cases in which the woman is threatened with serious harm and the abuse to her child was relatively minor. The severity of the threatened harm to the woman must outweigh quite substantially the severity of the actual harm to the child. The woman's failure to protect in such cases would still not be justified because she has a duty to protect her child. However, it would nevertheless be understandable and excusable in terms of the common and morally unobjectionable human motivation of self-protection.

Moral responsibility is a matter of degree, and so, too, is excuse from moral responsibility for a wrong done. Good excuses reduce the degree of moral responsibility but may not eliminate it entirely. Just how much a woman's moral responsibility for failing to protect would be lessened by the excuse of self-protection would depend on comparing the harm threatened to the woman with the harm actually inflicted on her child.

Regrettably, in all these cases, there are complicated combinations of circumstances against a persistent, background expectation that mothers should be willing to be beaten to a pulp to protect their children. There are likely to be moral remainders. Yet we should not go too far to the other extreme and say that mothers (or fathers) have only minimal duties to protect their (vulnerable) children. And we should not, for one moment, forget to hold the actual *abusers* responsible, both morally and legally, for child abuse.

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Parental Values and Children's Vulnerability

Mianna Lotz

Children are among the most vulnerable members in any society, and theirs is a vulnerability grounded in their dependency on others for care and protection from harm. A child's dependency-based vulnerability establishes significant obligations for others—most notably parents—to protect her from harm and provide the care and resources needed for her to develop into a fully functioning member of the moral community. Beyond the child's vulnerability to harm and neglect, however, there is also vulnerability in respect of autonomy development. Joel Feinberg influentially defends a child's right to an open future as an anticipatory autonomy right, drawing attention to the fact that parents (and those who act in loco parentis) can treat a child now in ways that will restrict the development of the child's autonomy in the future. Yet a requirement to protect a child's right to an open future is in tension with the proclaimed interest of parents in being free to impart their own substantive values to their offspring. This chapter considers the question of whether parents who actively seek to inculcate values in their children are failing to respond adequately to their child's vulnerability. While recent cases before the Australian Family Law Court have imposed restrictions on the extent to which parents may expose children to particular kinds of values, the alleged interest of a parent in being free to impart her own values has not received sufficient attention in the philosophical literature. This chapter considers whether an adequate recognition of children's vulnerability would entail a requirement of parental values neutrality and, if so, whether such a requirement would be problematic.

Questions concerning a child's vulnerability to the impact of her parents' values recently attracted the interest of the Family Court of Australia. In his interim ruling in the case of *Hoover & Hoover* (2009), Deputy Chief Justice John Faulks imposed a significant curtailment on parental exposure of the child in this case to the extreme right-wing, neo-Nazi political views of her parents.¹ The Justice

¹ The case was due to reconvene in July 2009, but there have been no subsequent rulings to date.

emphasized the entitlement of all people to their own views, even where those are regarded by a majority of community members as *abhorrent* or *contrary to normal reason*. Yet the justice nevertheless ruled that “each party be and is hereby restrained from teaching or actively encouraging the child to take on or hold any political views of that parent.”² In his Reasons for Judgment the justice referred to the threat to the child’s best interests from being caused (whether inadvertently or intentionally) to “develop in an inappropriate way at some point in the future” and perhaps to come to be “condemned or ostracized by other children or other members of the community because of the beliefs of...her parents” (Orders 5, 12).

The justice’s concern in this case (unlike in some other relevant cases³) thereby went considerably beyond protection of the child against risk of *immediate* harm to more controversial claims of the longer-term, potentially adverse impact on the child’s interests. The question I want to consider here is whether such a restraint as the justice in this case imposed could be morally justified. I am also interested in exploring the way standard debates over questions of a child’s emerging autonomy (and perhaps her right to an open future) might be transformed by a specific focus on a child’s (current) vulnerability to her parents. I want to suggest that attending to a child’s vulnerability to her parents allows us to bring into focus certain highly morally significant properties of the parent–child relationship: specifically, the inequality of power between parents and children and the privileged position enjoyed by parents in respect of their ability to influence a child’s developing values. I will argue that there are ways of attempting to influence a child’s values that constitute an exploitation of the dependency relation between children and their parents and that are therefore characterizable as forms of parental domination. In their attention primarily to the risk of future-autonomy violation, liberal commentators on this topic are at risk of overlooking these important qualities of the parent–child relation. Closer attention to parental power, I shall argue, yields firmer grounds for objecting to at least some forms of parental values inculcation.

1. Children’s Vulnerability in General

Considered in general terms, the special vulnerability of children—their vulnerability *qua* children—arises from their particular dependency on the

² [2009] FamCA 267, Order 5. Other orders included restraining the parents from expressing views or viewing websites in the company of their child that would be in breach of relevant discrimination and racial discrimination legislation.

³ Other, somewhat similar, cases have resulted in parents being restricted from taking their children to political protests and rallies. See, for example, *Wiuipa & Kogoya* (2008). Yet these rulings were justified by appeal to the risk of direct physical harm to the children should the protests turn violent. The justifications in those cases differed in key respects, therefore, from that in the case under discussion.

actions and choices of others, especially their caregivers, and from their (at least temporary) lack of the full complement of skills and capacities that might mitigate such dependency.⁴ The child's vulnerability is thus paradigmatic of what Robert Goodin (1985, p. 112) insists is true of *all* vulnerability, namely, that it is *essentially relational*.⁵ The child has what Eva Kittay (1999) terms an *inevitable dependency*—a form of dependency inherent in the human condition that is inescapable in the life history of each individual. As such, the dependency of children is not properly regarded as unfortunate or regrettable. Indeed, feminist writers have reminded us that important goods like autonomy are not even attainable without a prior and extended period of dependency.⁶ Annette Baier (1985) emphasizes the fact that selves are necessarily formed through the intensely dependent relationships of infancy and childhood. Thus, dependency is neither counterposed to autonomy nor inimical to its development.⁷ Both dependency and interdependency are ineliminable in the histories of even ideally autonomous and self-governed lives.

The *general* fact of children's vulnerability is thus properly understood to be nonexceptional and noncontingent. It is necessarily a condition of every child's life and is not in itself a matter of justice (although of course, questions of justice may well arise in relation to children's vulnerability). Certainly, the extent of the needs and dependencies of childhood may vary and diminish through the course of a child's development. Nevertheless, Sigal Benporath (2003) is essentially correct in claiming that "the single most relevant trait of childhood [for the purpose of the establishment of just and moral relations between adults and children] is...the vulnerability of children's lives and ... well-being" (p. 127). Importantly, children's vulnerability stems from their dependency on caregivers both for *material* sustenance (what Kittay, 1999, p. 29, terms their *dependency for survival*) and for psychological and emotional support (their *dependency for flourishing*). The vulnerabilities that are my focus in this chapter are those arising in particular from children's *dependency for flourishing*.

What I am specifically interested in here is the question of a child's vulnerability to parental values inculcation. First, the concept of *values* requires some preliminary clarification. In my use of that term I mean to refer in a fairly general way to parents' *substantive values* (or *value judgments*)—that is, their normative commitments and judgments, whether political, moral, religious, or metaphysical. The designation *substantive* is intended to pick out those values or beliefs with content not susceptible to varying interpretation

⁴ For a full discussion of both the distinction and relationship between dependency and vulnerability see chapter 7 by Dodds.

⁵ I favour a definition of vulnerability that is more expansive than Goodin's (1985) "being under threat of harm" (p. 110). While vulnerability does expose one to risk of harm, Goodin's formulation suggests rather greater immediacy of threat of harm than I consider necessary and useful.

⁶ See, for example, Minow and Shanley (1996).

⁷ For more on this see also chapters 1 by Mackenzie, 5 by Anderson, and 8 by Scully.

or accommodation within competing value systems. Value judgments such as “blacks are inferior to whites,” or “All Muslims are violent jihadists,” for example, are *substantive* evaluative claims in this sense. They can stand alone and need not be integrated into any particular value system or comprehensive doctrine but are probably most commonly scaffolded within and by a more thoroughgoing value system containing a range of mutually reinforcing judgments. Importantly, *not* included amongst substantive values are “thin” evaluative judgments such as “causing unnecessary harm is bad” or “evildoing should be punished.” Normative commitments such as these are sufficiently indeterminate to be neutral between competing value systems, requiring as they do further content specification by reference to more substantive accounts (e.g., of what counts as *harm*, under which circumstances a harm is *unnecessary*, and what constitutes *evil*).

As indicated, it will perhaps most commonly be the case that a person's substantive values will comprise part of a broader integrated, internally self-reinforcing value *system*—in Rawlsian terms, a *comprehensive doctrine*. However, my discussion here will not be restricted only to consideration of the inculcation of wider value systems, since it is conceivable that some of the substantive values we hold may be quite discrete and not dependent on any particular value system. It may turn out that the greatest moral concern is appropriately reserved for efforts by parents to impart thoroughgoing value systems to their children. However, my particular emphasis on questions of parental power will suggest that what matters for our purposes is actually not whether the values that parents seek to instill are discrete and stand-alone ones or, alternatively, more integrated and systemic in type; instead, what matters is whether in inculcating values or value systems parents are essentially engaged in unacceptable domination of their children.

Before we embark on a consideration of that question, however, the idea that the acquisition of values is connected to and even necessary for flourishing requires some argument. I cannot address the issue in full here, but some indicative comments will suffice. Establishing a connection between flourishing and values acquisition carries the implication that the acquisition of values is, *inter alia*, a good for the child herself. I start with that conception, before considering toward the end of the chapter what might be said of the distinctly *parent-centered* goods of inculcating substantive values in their children.⁸

⁸ A *parent* is, for my purposes here, any person who stands in the *social* role of parent to a particular child: that is, a person recognized as having special responsibilities and rights in respect of particular children, regardless of how those rights and responsibilities were originally attributed. A parent can therefore be a biological progenitor, a biological grandparent, a nonbiological relation, or any other primary caregiver. Further, I assume no necessary limit as to the number of persons who could occupy this role in relation to a particular child, though pragmatic, as well as welfare-determined limits will apply. In this respect I am sympathetic to the kinds of accounts proposed by Joseph Millum (2008, 2010).

2. The Child-Centred Goods of Values Acquisition

The acquisition of values is widely recognized to be integral to the development of autonomy and self-governance as well as to identity formation, integrity, and moral agency.⁹ A person's values both inform and express her conception of the good. Tightly bound up with beliefs and desires, values guide actions via the mechanism of (more or less) reflective self-control. To the extent that we identify with and endorse our value-based reasons and can bring about action in line with those reasons, we are self-governing and reasons-responsive agents—we are, in other words, autonomous. The acquisition of values is in this way necessary for autonomy and moral agency.

Robert Noggle (2002) argues that the possession of a *value system* (rather than some collection of possibly ad hoc and disparate values) forms the key requirement for moral agency. Noggle aligns the notion of a value system closely with that of a conception of the good:

A value system...includes not only moral values, but also the person's personal ideals of the good life, and the fundamental concerns, commitments, attachments, and projects that make her life worth living. (P. 112)

Thus, a value system is, for Noggle at least, an important source of the evaluative criteria needed for an agent to be able to make rational judgments among available options, informing those judgments by helping to establish what is worth pursuing and what is not. A value system furnishes an agent with an "evaluative compass" that supplies meaning and direction to her choices and her life without which she would be, says Noggle, "a lost soul indeed" (p. 113).¹⁰ To my mind, the claim that attaining autonomy requires not just possession of some set of potentially discrete and independent values but also a whole value *system* seems plausible in relation to *adult* autonomy, perhaps. It is less clear to me, however, that a *child* would need to be furnished with a more or less complete value system to be able to begin to develop autonomy and moral

⁹ Admittedly, the good of autonomy is perhaps only fully realized in adulthood. But importantly the child herself has an interest in acquiring values to the extent that she has an interest in becoming autonomous, even if we insist that that interest is only truly an interest of the adult that the child will become. For discussions of the state's and society's specific interests in the development of autonomous citizens, see Archard (2002, p. 155) and Young (1995, p. 543). Of course, whatever the state's interest, Archard points out that "if political participation is a good, either intrinsically or instrumentally, then each future citizen has an interest in acquiring the ability to participate" (pp. 155–156).

¹⁰ There are, of course, substantial debates in the philosophical literature as to whether autonomy is to be understood in procedural or substantive terms. For a helpful explication of the difference, see Mackenzie and Stoljar (2000). While these competing conceptions of autonomy may generate distinct moral analyses of the inculcation of values in children, and while notions of flourishing (at least in the Aristotelian sense) perhaps fit more naturally with the thicker, more substantive accounts, it is not my intention to here align myself with one or the other of these conceptions. The possession of values of some kind seems central for both.

agency and thus to be protected against the threat of *rudderlessness*, which, as we will see, is of concern for several commentators. Noggle may well be right to emphasize value systems, but as already indicated my focus will be on substantive values more generally.

Amy Mullin (2007) provides an interesting and rather different account of the relationship between values acquisition and autonomy development. She argues that self-governance requires the existence not just of certain skills and competencies (e.g., for critical reflection) but also, as she says, "first and foremost, a self that has enough structure to it, enough stability and consistency, that it can guide activities" (p. 537). Defining the *volitional self* as "that part of the self that seeks to govern its own action to accord with what it values, cares about, wants to accomplish" (pp. 537–538), Mullin argues that while possession of a volitional self does not require a maximally unified and perfectly stable sense of self, there nevertheless needs to be sufficient continuity and stability of cares, projects, commitments, and loves for the governance of agency to go well and for the agent to be properly autonomous. In this respect Mullin takes her lead from Frankfurt in adding—to the requirements of both *a self that can govern* and *the actual governance of one's activities*—the further autonomy-related requirement that "the governing must accord with what the person cares about, whether these are ideals, things or people" (p. 537).

Of special significance for analysis specifically of a *child's* autonomy development, Mullin's (2007) view that self-governance can be grounded *inter alia* by our loves and not uniquely by our capacity for reason allows her to claim that even those without full capacity for reason and critical reflection are nevertheless capable of at least *local* autonomy, understood as the capacity to know, express, and pursue in action the things that one loves or cares about. It might be noted, then, that Mullin's argument thus seems more compatible with a claim that autonomy development in children requires values development in the broad sense rather than the comprehensive *value system* development on which Noggle (2002) insists.

It is interesting to note, in addition, that Mullin's (2007) account has implications for the argument that will build throughout this chapter, concerning the problem of parental domination. In the final section I set out key factors or conditions that explain a child's vulnerability to domination by her parents. One of these is what I term the *unity privilege* that parents have in transmitting their beliefs and normative commitments to their children. This unity privilege is based on the fact that parent-to-child information and opinion transfer will inevitably be bound up with emotion transfer within the relationship, given the strong affective tie that typically exists in the parent–child relation. I will reserve full discussion of parental privileges for later, but one point is worth drawing attention to at this point. Importantly, in recognizing that a child's capacity for self-governance will be significantly grounded in her emotional attachments to others (especially her parents), we should not overlook

the fact that such attachments can, under some conditions, be impediments to autonomy development and self-governance. Mullin's paper does not identify or concern itself with that risk, yet it is one worth bearing in mind since attachment can—and perhaps characteristically does—increase rather than mitigate a child's vulnerability and may therefore impede rather than enhance autonomy development.

If I have said enough to establish the good for children of acquiring something in the way of foundational values, I have said nothing as yet about the *source* of these or about who might be entitled to facilitate or guide their acquisition. In particular, while the child-centered argument links the child's development of values to their development of autonomy and moral agency and thereby to their capacity for flourishing, it leaves open the question of the responsibility of the state, on one hand, and the child's parents, on the other, in facilitating that. I turn now to that question.

3. The Source of Children's Values: Liberal Education

The extent to which the state is entitled to involve itself in the teaching of values has been the subject of considerable debate in the literature in liberal political philosophy. Most prominently, John Rawls (1997) argues that the legitimate liberal state must provide “a culture of free institutions” and a political foundation capable of allowing individuals sufficient scope to pursue their own conceptions of the good—their “reasonable yet irreconcilable” comprehensive doctrines (p. 766). Accordingly, it might be thought, an education system within a liberal state has no business teaching *substantive* normative values to children.

Disagreement has of course prevailed over whether liberalism should be understood as exclusively a *political* doctrine or alternatively a *comprehensive* moral doctrine, encompassing political principles alongside its own conception of the good life. Debates centre on whether political liberalism's disavowal of attachment to a particular conception of the good is either plausible or defensible and on whether even the most neutral political liberalism necessarily embodies intrinsic as well as instrumental values and virtues. Both liberal and nonliberal thinkers—including William Galston (1988) and Michael Sandel (1998)—have variously argued that such a disavowal necessarily undermines the very possibility of community and thus the development of virtues and habits necessary to sustain a common life and a liberal society.¹¹ Many

¹¹ Galston (1988) argues specifically for a nonneutral, substantive liberalism—a virtue liberalism—that is committed to its own distinctive conception of the good, its own “canon of virtues,” including such virtues as courage, law abidingness, loyalty, toleration, rational self-direction, self-restraint, individuality, and self-determination (pp. 1278–1287). For a useful discussion of debates in philosophical liberalism, see also Randall Curren (2006).

liberals acknowledge that liberalism necessarily promotes particular values and virtues above others, namely, in its commitment to the specific ends and values bound up with autonomy and a sense of justice.¹² Even Rawls (1993, pp. 122, 199) argues that the key purpose of education is to prepare children to be self-supporting while encouraging political virtues of toleration, mutual respect, and a sense of fairness and civility so that as adults they will want to honour the fair terms of social cooperation.

Nevertheless (most liberals insist), this does not amount to commitment to the state's *direct* promotion of *comprehensive doctrines*. Accordingly, David Archard (2002) argues that political liberalism in the Rawlsian tradition would not aim *directly* at education for autonomy but would nevertheless achieve that, he says, *in effect*—namely, via educating children for democratic citizenship within the liberal political sphere. Archard's claim is based on Amy Gutmann's (1995) notion of the *spillover effect*, a term given to the idea that an education in the political skills and virtues of liberal democratic citizenship has the effect of providing for, as she puts it, "the personal skills and virtues of a self-directing or autonomous life," even though that is not directly aimed at or intended (p. 576).¹³ Accordingly, the liberal education system thus restricts its role, as Eammon Callan (2000, p. 141) puts it, to "equip[ping] children with knowledge and skills they are free to use or not regardless of their basic ethical values."

What seems crucial to this liberal conception, therefore, is the requirement that any virtues and values instilled in children by the liberal education system must be sufficiently thin, political, and nonsubstantive to be permissive of a plurality of thick conceptions of the good, ruling out only those that are incompatible with the core principles permitting full participation in the liberal democratic state. This will be in line with recognizing Galston's (1991) injunction that every child "is at once a future adult and a future citizen" (p. 252). Within a liberal democratic state, then, it seems appropriate that the education system refrain from directly seeking to instill in children comprehensive normative commitments, notwithstanding the ongoing dispute regarding the classification of Rawls's so-called political virtues and values.

4. The Source of Children's Values: Parental Inculcation

The second possible—and typically prior—source of a child's values is, of course, her parents. Many liberals seem simply to assume that parents will seek

¹² See, for example, Callan (2000) and Archard (2002). Presumably, for these liberal theorists, such values and virtues are sufficiently substantive to sustain common life within a liberal society.

¹³ As Gutmann notes, some theorists dispute that an education for autonomy (and individuality) is sufficiently sensitive to that other central liberal goal of providing for social diversity. See, for example, Macedo (1995). I will not explore that issue here.

to instill their substantive values in their children, arguing that since nothing much can be done to prevent that, it is precisely a core responsibility of the liberal education system to impart to children the skills with which to critically reflect on their parents' values and conceptions of the good. In this sense an important function of the education system is a *corrective* and *remedial* one—to provide, in a sense, an antidote for the shortcomings of the family in raising future adults capable of full membership and participation in the liberal democracy. Therefore, Harry Brighouse (2006) explicitly depicts the state's role in terms of potentially *compensating* for parental limitations:

Different ways of life elevate different virtues [and we can add 'values'], and some children are ill constituted to develop the particular virtues [or values] that their parents' way of life endorses. Some children will, of course, be well suited to the ways of life into which they are inducted by their parents. But neither the state nor their parents can identify these children in advance. So to guarantee that all children have the opportunity to live well, the state must ensure that all children have a real opportunity to enter good ways of life other than those to which their parents seek to induct them. (P. 18)

Indeed, the state's corrective role in endowing children with the skills for critical reflection on the ways of life into which their parents induct them establishes for Gutmann that parents must be left substantially free to instill their deepest values in their children. While Galston (1991) insists that limits to parental authority are supplied by an overarching liberal political commitment to ensuring participation in the liberal democracy and therefore that the only restriction on parental values inculcation applies where that inculcation would require the exemption of the child from an education for liberal democratic citizenship, Gutmann (1995) commits to what seems a more minimal constraint that "[while] parental convictions that conflict with teaching children civic virtues must be tolerated...they should not be publicly subsidized by schools" (p. 577).

One possible objection to this significantly permissive conception of freedom for parental values inculcation is that it is hopelessly naive. The suggestion that a child raised for her first five or six years according to nonliberal values might nevertheless arrive at the gates of a liberal public school able to freely and readily revise her existing value set is implausible. It does not take due account of the significant difficulties likely to be encountered by children raised in very dogmatic and doctrinaire families in terms of establishing for themselves a sufficiently expansive critical and reflective space of their own. Well, we may ask, then: might it not be necessary—for a liberal democracy to ensure that its citizens really do have access to informed and autonomous liberal citizenship—to require something more akin to state-like neutrality and values pluralism of parents? Referencing Galston's (1991) point about children being simultaneously future adults and future citizens as legitimate grounds

for limits to parental *authority*, Gutmann (1995) attributes to both political and comprehensive liberals a view that “parents do not have the right to indoctrinate their children any more than does the state or any other educational agent” (p. 576).¹⁴ While Gutmann does not specify exactly what she means by the term indoctrinate, it is nevertheless clear that she supports minimal constraints on parental values inculcation, preferring instead to vest in the liberal public education system a considerable degree of confidence as well as responsibility for equipping children to shrug off any shackles imposed by their parents’ efforts to impart their values.

But Gutmann’s (1995) view might be contrasted with a rather different—yet conceivably still liberal—requirement of what we might call *parental substantive values pluralism*. More specifically, what might be proposed is a requirement that while certain minimal and pluralist virtues are permissibly endorsed and taught by parents (e.g., toleration and respect for diversity), a parent’s more substantive commitments, and certainly her comprehensive doctrines, must either be entirely withheld or, at most, presented as but one set amongst a reasonable plurality of others. In this vein, and discussing specifically the question of *religious* upbringing and a child’s right to an open future, Jeffrey Morgan (2005, p. 382) proposes a requirement of explicitly acknowledged and communicated fallibilism or *moral corrigibility*. For Morgan, the adoption of a stance of moral corrigibility would require that a parent’s committed belief in any particular religious doctrine must be presented as something about which she might stand in error. Implicit in this proposal seems to be the idea that a declared fallibilism will help children to develop sufficient rational space in which to critically reflect on and choose amongst (or against) the beliefs and values transmitted by their parents.

The question is, therefore, whether liberalism might indeed justifiably demand this kind of substantive values restraint all the way down, so to speak, from the state through the education system to the parents. Three further specific questions immediately arise. First, to what extent would such a demand be compatible with liberalism’s other commitments, including to social diversity and multiculturalism? Second, to what extent might it be warranted, if indeed the education system is functioning in the way that liberalism requires? And third (and most importantly for my purposes here), to what extent might such a demand conflict with significant parent-centered interests and goods? This last question is important because a defensible moral analysis of parenting would not focus exclusively on children’s interests, since to do so will be to treat parents as essentially agents, instruments, or servants for the meeting of a child’s interests and will overlook the significant mutual and reciprocal

¹⁴ The implication here is that the grounds for those limits are the same in both cases and hence that both the state and parents stand in the same kind of relation to the child vis-à-vis an entitlement to seek to indoctrinate children in substantive moral opinions and value systems.

goods of parenting.¹⁵ To that effect Brighthouse and Swift (2006, p. 107) argue that parents do not have a duty to promote their child's *best* interests, enjoying instead some legitimate scope for pursuing their own interests even where these may conflict with what would be the absolute best for their child.¹⁶ The specific question that interests me, however, is whether parents might have obligations not just to ensure access to a full liberal education for their children (which I will not challenge) but also to refrain—to some yet-to-be-determined extent—from effortfully inculcating in their children their own substantive moral, political, and religious values and conceptions of the good life.

To assess this requirement, we need to consider at what price it would come. What goods (if any) would be threatened and even lost in meeting a requirement of parental substantive values pluralism? Most specifically, what are the ostensible goods *for parents* of inculcating their values in their children, such that any limits on their freedom to do so would at least stand in need of justification?

5. The Parent-Centered Goods of Values Inculcation

It is not easy to locate explicit arguments for a parental good of values inculcation in the relevant philosophical literature, but arguments for a familial right to privacy and freedom from unwanted state intrusion go a considerable distance toward establishing the conditions in which parents are indirectly free to mould their children's values.¹⁷ The most influential arguments for familial privacy (see Fried 1970; Schoeman 1980; Schrag 1976) propose at least four grounds, the most significant of which I take to be intimacy and the development and maintenance of close, personal relationships.¹⁸ If a substantial entitlement to familial privacy can be established, as a means to protecting familial intimacy, it indirectly secures the conditions in which parents are largely free to direct the development of their children's values (subject to the usual Millian harm constraint). Privacy arguments thus establish what Gutmann (1995) describes as "a protected realm of parental educational authority" (p. 575). But on these accounts the argument is not so much that inculcating values is *in itself* a good for parents; it is rather that a freedom to do so comes as

¹⁵ An argument also made by Callan (1997, pp. 144–145).

¹⁶ Though, as they also acknowledge, a liberal theory will have to make any parental rights it recognizes conditional in some way on sufficient protection of the child's interests.

¹⁷ And in practical terms, as is often pointed out, it will be virtually impossible to prevent parents from seeking to do so.

¹⁸ I discuss this in more detail in Lotz (2004), from where I draw a substantial part of the following discussion. It should be noted, however, that in terms of my focus here, neither privacy nor intimacy can properly be regarded as exclusively *parent-centered* interests.

a necessary *by-product* of honouring their entitlement to other goods (such as intimacy).

While much of Archard's (2002) analysis centers on claims of distinct *community* interests in the cultivation of children's values (which are not my focus here), he suggests that we can acknowledge and secure the important goods of shared familial values but without thereby securing a parental entitlement to instill values in their children (pp. 150–151). Archard agrees that we must acknowledge the considerable significance of the role of parenting for most adults with children, and he endorses Callan's (1997) observation that parenting typically engages a person's "deepest values and yearnings" (pp. 144–145). But for Archard none of that establishes that parents have a *direct right* to instill their values in their children. He believes that the sharing of values typically results from the intimacy and common life of families—the shared activities and experiences that characterize family life (Archard 2002, p. 150). And, he argues, "if there is a right to be claimed here it is [only] the right of a family to live together and to participate in common activities" (p. 151). Substantive values and beliefs may well be transmitted *as a probable consequence* of a shared life. But for Archard any right we might claim to a shared family life does not extend to a direct right of parents to transmit their values or to an entitlement of parents to complain if their values are challenged or subverted in the course of their child's exposure to a liberal education.

As is true of Archard's (2002) work on this topic, concerns about the impact of parental inculcation typically refer to the notion of a child's "right to an open future," a right first explicated by Joel Feinberg (1980). Feinberg argues that amongst the rights we recognize for children, some are *rights-in-trust*—that is, rights that the child is not yet capable of exercising but that must be preserved for exercise by the adult that the child will become (pp. 125–126). Central to these is the *anticipatory autonomy right*—the right to *future* autonomy. To respect a right to *future* autonomy requires the *current* keeping open of a child's options along with the development of the skills for choosing amongst these at some future point. A child's right to an open future thus serves to protect the capacity of the adult that the child will become to autonomously choose goals, projects, and commitments that could otherwise effectively be closed off to her during childhood. Hence, Feinberg argues, a child's education must be such as to ensure that the child is "[sent] out into the adult world with as many open opportunities as possible, thus maximising his chances for self-fulfillment" (p. 135).¹⁹

Admittedly, Archard (2002) argues in relation to *parental* obligations in particular that it is *sufficient* rather than *maximum* autonomy that is a child's

¹⁹ Recent discussion has focused on whether this right is properly understood as imposing parental duties to *maximize* a child's autonomy or merely to support the development of a *satisfactory* or *sufficient* level of autonomy and of whether it imposes parental duties that are *negative* (i.e., to *permit* and *not prevent* influences to work upon a child) rather than *positive* (i.e., to *provide* influences and open up all possibilities for children). See, for example, Lotz (2006, pp. 537–551).

right, and it is his view that becoming sufficiently autonomous is consistent with acquiring a set of values (p. 156). Rather than ruling out parental values transmission on the grounds that it necessarily violates a child's future autonomy, therefore, what is crucial for Archard is that whatever influence a parent seeks over the development of her child's values it must be such that the child will be able later to "reflect upon these values and elect to revise, abandon, or endorse them for herself" (p. 157). She must be able, that is, to see herself as "prior to her ends" (as it is sometimes put), not in the sense that she is without a set of values—the supposed "unencumbered self" denoted in Galston's (1991) caricature of liberalism—but rather, as Kymlicka (1989) says, in the sense that "no end or goal is exempt from possible re-examination" (cited in Archard 2002, p. 157). Parents may permissibly confer values and a way of life in their childrearing practices so long as the child nevertheless comes to possess the required capacity for values reflexivity. As we shall see, however, Archard's emphasis appears to be on the *indirect* transmission of values—that is, values transmission via the shared activities of common family life and not by direct inculcation.²⁰ The implication seems to be that more directive, didactic means of instilling values would indeed be likely to fall foul of the child's "right to an open future."

Perhaps, then, we can deploy the direct–indirect distinction in relation to parental values inculcation, analogously to the way Gutmann (1995) and Archard (2002) deploy it in relation to the liberal state's permissible education of children. As we saw in the earlier discussion, the indirect or spillover effect of a (permissible) education for liberal democratic citizenship is, for Gutmann, the provision of "the personal skills and virtues of a self-directing or autonomous life" (p. 576), even though that is not what a liberal state education is allowed directly to aim at. Perhaps, then, what we should argue for is a requirement that parents may only *indirectly* inculcate their values in their children, thereby ruling out any *direct* attempts to do so.

One concern immediately arises. This relates to the potential demarcation problem threatening the ability to distinguish meaningfully and, more to the point, *morally* between direct and indirect parental values inculcation. It might be thought that one way to construe the direct–indirect distinction is as between *overt* and *covert* values inculcation. However, such a construal confronts the fatal objection that it is surely not the case that deliberately covert attempts by parents to instill their values in their children are always morally more benign than overt attempts to do so.²¹ Parents sometimes use very subtle means—often involving a considerable degree of emotional manipulation—to influence their children to think as they do. While the child who is the

²⁰ For this he has been criticized by other liberal writers such as Morgan (2005, pp. 367–387), but it is not clear to me that his proposed alternative fares any better than Archard's.

²¹ A possible objection drawn to my attention by Janna Thompson and Paul Formosa.

object of such parental efforts is not being subjected to explicit condemnation or advocacy of specific values or value systems, in covert parental values inculcation she is nevertheless the target of a highly deliberate and intentionally *indiscernible* parental strategy. That is, covert values inculcation involves a degree of deception and manipulation of the child by the parents. And this, I will assume, is morally unacceptable.

Importantly, however, in discussions of parental values inculcation any distinction between direct and indirect inculcation is not typically intended to map onto a distinction between overt and covert inculcation, at least if what is meant by covert is intended deliberate and manipulative inculcation. And most importantly, such parental behavior will be debarred by the analysis I present shortly, namely, of certain forms of parental values inculcation as unacceptable in virtue of its embodiment of an attitude of domination on the part of parents and, therefore, of what is an illegitimate use of parental power. In terms of the manifestation of parental domination, there clearly is no meaningful moral distinction between overt and covert values inculcation.

Nevertheless, we may be better off abandoning the direct-indirect distinction as a conceptual mechanism by which to distinguish morally acceptable from unacceptable parental values inculcation. What I think can be concluded from discussions in which the distinction is deployed is that the key concern in the relevant cases is not fundamentally with the *conspicuousness* of parents' efforts at values inculcation but rather with what we might think of as the *exclusionary* intent and effect of such efforts. In the relevant cases the parent's objective is to debar serious consideration of competing values and viewpoints. Concern about exclusionary values inculcation seems also to underpin discussion of the state's permissible education of children. And it is central to Morgan's (2005) proposal that out of respect for a child's religious upbringing parents adopt an overt stance of potential moral corrigibility in conveying their own commitments. To clarify further, exclusionary forms of parental values inculcation are those that involve explicit and pejorative depiction of the parents' own values and value systems as the "best" or "only" available; the forced participation of children solely in activities that instruct in the parents' values; and parental refusal to allow children to participate in educational or social activities that inform them of alternative and possibly competing values. In these cases, parents are deploying highly directive and intentionally exclusionary means by which to influence their children to take up their own values. It is, therefore, the attempt to pejoratively exclude or preclude exposure to competing values that constitutes unacceptable parental values inculcation. By contrast, acceptable values inculcation would include such practices as nonexclusionary provision of opportunities to engage with parents' values via shared family and community activities; open disclosure of parents' values *accompanied* by discussion of competing values; and explicit and demonstrated tolerance of disagreement over values, both within and outside of the family.

This, then, is the way I propose we ought to think about a requirement of parental substantive values pluralism: it is a requirement that imposes on parents a restraining obligation of *nonexclusiveness* in their intrafamilial efforts at values inculcation. Clearly such a requirement finds a ready foundation in liberalism's general commitments to pluralism, autonomy development, tolerance, and respect. And it finds further grounding in an analysis of the power relation that exists between parents and children and in recognition of the potential for parental efforts at values inculcation to manifest exploitation of parental power and, therefore, domination of children.

The proposal that parents ought always communicate their own values in ways that meet the requirements of nonexclusionary inculcation as already outlined may strike some as problematically relativistic. Is it a reasonable liberal requirement that parents model a stance of openness toward values that conflict with their own *irrespective of the moral quality* of those values? What if the competing values to which their child is exposed are reprehensible, discriminatory, and clearly morally bankrupt? What if, for example, the prevailing community values are virulently racist?²² If the proposed degree of openness with regard to such values is what liberal pluralism would require of parents, so much the worse for liberal pluralism—or so it might be argued.

Fortunately, the suggestion that according to the framework I propose parents would be required to maintain a fully neutral orientation toward all and any competing values is without foundation—at least if it is remembered that we are here concerned with parenting within *liberal* democratic nations. For, as noted earlier, it is now widely accepted that liberalism is itself committed to particular values and virtues required for liberal citizenship and participation, namely, those associated with promotion of autonomy and justice. We saw that following Rawls's own thinking, political virtues of toleration, mutual respect, and a sense of fairness and civility are properly promoted within liberalism. And crucial for the development of autonomy and these political virtues is the capacity for values reflexivity. I have argued that parents *may* permissibly seek to confer their values and their conception of the good in raising their children, so long as they do so in an appropriately *non*-exclusionary manner (specified already) and the child develops the capacity for values reflexivity. Accordingly, a parent seeking to raise her child within a virulently racist society, for example, is not only entitled to convey her fervent opposition to such racism but also is actually *required*—by liberalism's own precepts—to make every effort to instill in her child the virtues of toleration, mutual respect, and a sense of fairness and civility. A commitment to such virtues precludes racism. And quite apart from its Millian commitment to prevention of harm to others, an ostensibly liberal society that tolerates racism—or wanton torture, rape, murder, paedophilia, and the like—is

²² Thanks to an anonymous reviewer for pressing this point and the need to more explicitly disarm it.

a liberal society in name only: its practices are in severe tension with its own key commitments.

There is thus no danger that a parent seeking to raise her children in the way defended in this chapter must be committed to treating all competing values and views as equally meritorious and worthy of consideration or to encouraging her children to maintain an open mind to questions such as whether racism is wrong. The capacity to reflect critically on all substantive moral claims must be developed and preserved, but that does not preclude active parental dissuasion in regards to the merit and legitimacy of morally pernicious values and conceptions of the good. Liberal pluralism requires no less than that.

Having refined what a requirement of parental substantive values pluralism would amount to (and having set aside the direct–indirect distinction for our purposes), we can now return to the question of what, if anything, such a requirement would threaten, in terms of the goods and interests of parents. Of course, whether parents would find a restriction to nonexclusionary values transmission to be highly demanding is one question; whether it is nevertheless a justified restriction is quite another matter. Its justifiability will depend to a significant extent upon the moral “costs” it imposes on parents, either in terms of benefits or goods foregone or harms directly incurred. It is not clear that familial privacy need be threatened by this requirement of values restraint, so at least that argument for parental entitlement will not take us far. But perhaps other parent-centered goods, as yet underacknowledged, would be threatened by a requirement to only transmit values nonexclusively. I want to suggest in particular three such goods before returning to the matter of a child's vulnerability and how a consideration of that might weigh against even those parent-centered goods.²³ These goods I refer to as *attachment* goods, *realization* goods, and *integrity* goods.

First, there are likely to be significant *attachment goods* that flow from a parent's *success* at transmitting her own values to her child. The possession of shared values bonds people together, creating solidarity and thereby aiding the development of empathic engagement. Thus, intimacy is enhanced. While I would not wish to suggest that intimacy and strong attachment is impossible in the absence of shared values, there is at least an intuitively compelling case for thinking that parents who share important normative commitments with their children will be likely to experience a strong sense of intimacy and attachment to them. But more important for my purposes, it can plausibly be argued that even the *effort* to bring one's child to “see the world” evaluatively as one does will enhance the sense of closeness and involvement with one's child. Importantly, there are benefits as well as dangers here. Attachment is

²³ At least the first of these, but possibly also (though more indirectly) the second and third, stands to benefit children as well as their parents, but here my focus is exclusively on putative goods for parents.

not always healthy, and a commitment to sharing values may stem from a possessiveness that is beneficial for neither parent nor child. That said, it seems no more plausible to insist that the seeking of shared values is always noxious than to insist that it is always benign or beneficial.

A second class of parent-centered goods, which I will call *realisation goods*, has received surprisingly little attention in the literature. This class of goods has a decidedly Millian flavour, though in the present context the justification refers primarily to parental rather than societal benefit. What I have in mind, specifically, is the good of being able to pursue one's own conception of the good life—one's own freely chosen "experiment in living"—not just within the purely self-regarding sphere of one's life but also, and perhaps *especially*, within one's own family. For all of its limitations, G. K. Chesterton's comment that "the family is the test of freedom because the family is the only thing that the free man makes for himself and by himself"²⁴ points to something that I think is central to many people's views of what they value in the opportunity to create a family of their own and to do so around the substantive values to which they have strong commitment. There is something deeply and inherently creative about founding and raising a family. In the desire to create one's own family are bound up the aspirations (and perhaps hoped-for redemptions) of an opportunity to mould a small intimate community in line with one's own values and beliefs. We may not always be conscious of it or grateful for it—and certainly it may be far from a good thing—but we build our own families at least partly out of an emotionally informed response to what we have come to regard as positive and healthy, as well undesirable and unhealthy, in our own families of origin. And to the extent that we are reflective, we (at least) aspire to build our families on the foundation of our consciously endorsed normative commitments. In our most fundamental social unit we seek (even if we don't succeed) to realize our own conception of the good life, and the effortful inculcation of our substantive values in our children may well be integral to our aim in doing so.

The third class of goods is most clearly appreciated through a consideration of the potential moral psychological impact on parents if they are proscribed from efforts to directly inculcate their values. In the activity of parenting our own substantive values are both continuously and comprehensively "in play." As Bernard Williams (1973) so influentially highlights, an agent's inability to act in a way consistent with and expressive of her values poses a potentially significant threat to her integrity. It might be objected, accordingly, that in an activity as normatively laden as parenting, any requirement that we restrain

²⁴ Date unknown. Of course Chesterton also said other (very questionable) relevant things, such as, "Tolerance is the virtue of the man without convictions," and "A teacher who is not dogmatic is simply a teacher who is not teaching," but we need not trouble ourselves with those proclamations here.

ourselves from *actively* and wholeheartedly conveying our substantive commitments has considerable potential to threaten our sense of integrity, our sense of wholehearted commitment to our values, and our experience of what we might term moral and psychological unity. And it is at least not obvious that such a threat would be removed by requiring parents to merely nonexclusively convey their values. Indeed, asking parents to temper their explicit, wholehearted, and unqualified endorsement of their substantive values in raising their children, even while we allow them full expression of those in their interactions with other adults, may well necessitate a level of detachment or predispose a parent to a kind of moral schizophrenia or alienation.²⁵ And it may well be a requirement that flies in the face of what we know to be true: that if we care about anyone else's values at all, we care about those of our children. We care, that is, that our children have the right kinds of values, where those will most plausibly be the values to which we ourselves commit.

To this end, allowing parents to seek to *exclusively* instill their values might be thought to preserve certain parent-centered *integrity goods* in a way that permitting only nonexclusionary transmission of values looks far less likely to do. That integrity goods necessarily take priority over other goods has not thereby been shown and is not a claim I will defend. There would surely be cases in which a parent's desire to live with integrity to their own normative commitments poses a threat of harm to their children that clearly outweighs any integrity goods for the parent. But that is not to deny that there are such goods; it is merely to establish that they are not necessarily overriding.

I have suggested three distinct respects in which the inculcation of values in children can be seen to embody ostensibly important goods for parents. My goal has been to correct for an underacknowledgment of what is at stake, for parents in particular, in what might otherwise appear a fairly benign liberal demand for parental substantive values pluralism. In the final section I want to return to a consideration of children's vulnerability, specifically in relation to parental values inculcation. Thinking more closely about children's vulnerability offers a somewhat different picture of the wrongs of exclusionary parental values inculcation than that afforded by the standard "open future" arguments.

²⁵ The idea of moral schizophrenia refers to Michael Stocker's (1976) well-known depiction of an undesirable bifurcation or disharmony between one's motives and one's moral reasons, involving either not being moved by what one values or not valuing what does move one. Of what he refers to as *modern ethical theories*, Stocker says, "As theories of the mind, of reasons and motives, of human life and activity, they fail, not only by putting us in a position that is psychologically uncomfortable, difficult, or even untenable, but also by making us and our lives essentially fragmented and incoherent" (p. 456). Peter Railton's (1984) notion of moral alienation captures the concern more explicitly: "Living up to the demands of morality may bring with it alienation—from one's personal commitments, from one's feelings or sentiments, from other people, or even from morality itself" (p. 134).

6. A Child's Vulnerability to Parental Values

In what sense, then, is a child distinctly vulnerable in respect of parental efforts to inculcate their values? Obviously, children can be at risk of direct physical harm or psychological distress as a result of their parent's values, and in recognition of that courts have sometimes barred parents from taking children to potentially violent political demonstrations and gatherings, for example.²⁶ But the risk of harm against which a court might seek to protect children need not be so immediate. Parents whose views and values, for example, breach discrimination or racial vilification laws may inculcate homophobic or racist views in their child that place her at risk of future breach of the law. And the law may appropriately proscribe that. In addition, as we saw in the ruling in *Hoover & Hoover*, other of the child's longer-term interests may also receive protection.

Clearly, a risk of *harm* to a child—however indirect—provides strong moral reason against at least some forms of parental effort at values inculcation. But it seems to me that a further set of important and as yet underacknowledged reasons are supplied by consideration of the nature of a parent's relationship to their child and in particular, the *inequality of power* between parents and children. Thinking about the question of parental values inculcation in this light gets to the heart of key moral questions that may be overlooked by an exclusive focus on violation of a child's right to an open future.

Specifically, parents enjoy considerable privileges, vis-à-vis other potential sources, in terms of their influence over their child's values. And I want to suggest that these privileges call into question their entitlement to use exclusionary means by which to inculcate values in their children. Even if the requirement of substantial parental pluralism comes at some considerable moral cost to parents, perhaps a child's vulnerability provides sufficient warrant?

First, parents have what we might term a *priority privilege*. In virtue of their caring role, parents are typically a child's *first* source of values, indirectly conveying by deed and word a set of world views and attitudes that are likely to be internalized by a child and to comprise the foundation on which she will develop her own views and values. Second, parents have a *proximity privilege*, arising from the position that they are in to transmit their values more readily, frequently, and continuously to their child than are any others. Third, they have an *authority privilege*, in the sense that as the young child's principal conduit of general life information—about the world, the child's place in that world, the necessary life skills that the child must learn to function successfully—any communication of values will be infused with the parents' authority

²⁶ This reference is to the restriction imposed on a father of West Papuan descent to not bring his children to West Papuan independence rallies. This case (name unknown) is discussed in ABC Radio National (2009).

in relation to other information they provide. Fourth, the parent has what we might think of as an *affect privilege* in that the values endorsed by parents are, from the perspective of a child, entirely bound up not only with other informational exchanges but also, importantly, with the emotional exchanges occurring within the parent-child relationship. The young child in particular is in no position to disentangle the parent's communications of affect from her communications of information or of values. Indeed—to return to Mullin's (2007) account discussed earlier—this unity of the parents' values with all else that they impart to their child urges caution against *assuming* that a child's emotional responses and her pursuit of what she cares about in her actions are expressions of her local autonomy. Mullin is surely correct that children's intimate relationships provide them with volitional commitments, and I agree that volitional commitments play a large role in agency without requiring critical reflection or all-things-considered best judgments (which if taken as definitive of autonomy does indeed put autonomy well out of reach of young children at least). My worry is the extent to which the child's volitional commitments are at best heavily emotionally laden and at worst may be emotionally coerced or manipulated by her parents. A child may indeed express her deepest cares in her actions, but that she cares and that her cares find their expression in her actions do not on their own attest to freedom from the coercion and domination for which emotional attachments and dependency relationships provide fertile conditions.

No doubt those occupying the parental role enjoy other privileges. I do not aim here for an exhaustive list but rather point to features of the parent-child relationship that rightly compromise and limit parents' moral entitlement to impart their values. What a full recognition of these privileges suggests, I think, is that parents who insist on an entitlement to *exclusively* instill their values in their child—in the unqualified, pejorative, and nonneutral way that liberals have sought in other contexts to restrain—insist on an entitlement to exploit a considerable power imbalance that they enjoy over their children, albeit possibly with a conception of their child's best interests at heart. They insist, that is, on freedom for purposes of domination.

If this seems a harsh assessment, we need only recall that domination is not necessarily—or perhaps most commonly—borne out of evil intent or hostility on the part of the would-be dominator, least of all in the parent-child relationship. This is a point well made by Sara Ruddick (1995) and worth quoting in full:

Dominators may care deeply for those they dominate; they may believe that domination is necessary for the eventual happiness and perhaps even the survival of the dominated. When caring dominators are benevolent and even-tempered, it is possible that neither they nor those they dominate recognize the character of their relationship. Dominating aims become evident,

however, if the dominated develops projects and ambitions, attachments and sexual desires, that are disturbing to the dominators...When confronted with incongruous willfulness, even a benign dominator is apt to reassert ownership, to confirm the relation of power to the object. (Pp. 213–214)

As Kittay (1999) points out, inequalities of power are endemic to relationships of dependency (pp. 33–34).²⁷ Yet domination is not a necessary feature of inequalities of power or therefore of dependency relations. For Kittay, domination is the *illegitimate* exercise of power and as such is *inherently* unjust, whatever its effects. In our case, what is illegitimate about a parent's efforts to directly inculcate their own substantive values is that it exploits the inequality and privileges of the dependency relationship and fails to give due recognition to the child's special and inevitable vulnerability to influence by her parent's values, including where those are only *inclusively* transmitted.

It is perhaps worth noting that parental domination may not just *exploit* vulnerability but also *express* it. Indeed, the vulnerability a parent may feel in connection with the wellbeing of her child may be without parallel (it can certainly seem so at times). In such relations we typically, and largely involuntarily, "relax the boundaries of the self," as Ruddick (1995) puts it, and our sense of our own well-being becomes inextricably bound up with our sense of the well-being of our child."²⁸ We cannot but become vulnerable ourselves in doing so. But in that supposed vulnerability we do not lack protective resources in the way or to the extent that our child does, and it is not a vulnerability that nullifies our considerable power advantage in the relationship. Unlike our child, we do not significantly lack the protective resources that can mitigate the dependency. The urge to bind the child ever tighter to us, to protect ourselves against the possibility of rejection by the child, may find expression in the urge to secure the child's commitment to our own most deeply held views of what is important and right. Be that as it may, that does not make it non-dominating to seek that achievement.

At this point one may be tempted to ask: but what is it about domination that is bad for the child, if it is not that it in some way *harms* a child or impairs her *autonomy*? We seem to have arrived back, that is, at either the open future or the harm argument. However, while the wrong of domination may in some cases be explicable in terms of autonomy restriction or harm, a moral assessment of parental values inculcation will not be exhausted by consequentialist or evidential analysis of the negative impact on a child. We need understand only the considerable privileges that parenting bestows and the

²⁷ Kittay (1999) goes on to say: "Domination involves the exercise of power over another against her best interests and for purposes that have no moral legitimacy" (p. 34). I am not sure I agree that the purposes of domination can have no moral legitimacy, but I largely agree with Kittay's point.

²⁸ Illustrating this point Kittay (1997, p. 35) cites Marilyn Frye's (1983) depiction of one who "grafts the substance of another to one's own."

child's dependency-based vulnerability within the relationship to understand the *inherent* wrongness of values domination.

7. Conclusion

I have tried to give more acknowledgment than is customary to distinctly parent-centered goods and interests in values inculcation. I have done so in order to more fully evaluate the possible justifiability of a moral requirement of parental substantive values pluralism. I have suggested that a consideration of a parent's considerable privileges in the transmission of values brings the child's vulnerability more sharply into focus as central to a moral analysis of any requirement of parental values restraint.

I have suggested that whatever the risks of such a requirement (and I would not deny that there are risks) the fact of children's vulnerability to parental domination gives considerable moral weight to a requirement that parents may only *nonexclusively* transmit their values to their child, namely by allowing their own substantive normative commitments to emerge, as it were, and to be modeled for their children, in their own behaviours and shared familial activities and in their dealings with those with whom they share community. If accepted this would represent a not insignificant restraint on parental ambition. But it is one which I think can be more easily tolerated via proper recognition of the considerable privileges that parents enjoy, vis-à-vis others, in respect of the transmission of values to their children. These are privileges afforded by a child's dependency on her parents and by her vulnerability to her parents.

Finally, a focus on children's vulnerability has two key advantages over the main alternatives, most notably those that place primary focus on a child's right to an open future. First, it draws our attention decisively to salient features of the child qua child, so as to focus on elements of its *current* state and the current parent-child relationship, rather than on the adult that the child will one day become. Relatedly, it enables us to see more clearly how it is that parents may wrong their child in the present rather than (possibly) in the currently anticipated future. In seeking to exclusively inculcate their own values in their children, parents wrong them by dominating them (whether intentionally or not)—by exploiting their power within what is an inherently unequal dependency relation.

Second, a focus on the child's special vulnerability to parental values relieves us to a significant extent of the burden of adjudication amongst acceptable and unacceptable values. Importantly, the values that a parent may seek to inculcate need not be pernicious in their content, for the efforts at their inculcation to be morally questionable. The child, who is necessarily vulnerable in respect of her parent's aspirations for shared values, may or may not be under threat of harm (as Goodin 1985 conceives of vulnerability)

from those values. Moreover, she may or may not have her future capacity to evaluate, revise, and choose her own substantive normative values undermined by her parents' exclusionary efforts at values inculcation, as required by open future objections. But she will have been dominated. I remain as yet unconvinced that that is a condition that would be readily defensible via all-things-considered justification.

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Children, Vulnerability, and Emotional Harm

Amy Mullin

Children are vulnerable because they need care not only to survive but also to develop their basic physical, intellectual, and emotional capacities. Since children depend heavily on care provided by a limited number of intimate caregivers, they are particularly vulnerable in relation to those who provide their care. This vulnerability is exacerbated when they are neglected or abused. I offer an analysis of children's emotional needs to identify when their emotional vulnerability is pathogenically increased by maltreatment. The pathogenic causes may lie in individual failings but are equally likely to lie in problematic social arrangements in assigning responsibilities for children's care, in monitoring care provided, and in giving necessary support to those with primary responsibility for care. Emotional maltreatment is increasingly recognized as a key predictor of significant and long-term adverse effects on children, yet it can be difficult to identify. I develop care theory, in a version informed by close attention to the vulnerability of both those who receive and those who give care, as a resource to identify pathogenic causes of children's emotional vulnerability and to make recommendations for change with respect to monitoring and supporting the care required to meet children's emotional needs.

Dictionary definitions of vulnerability tie it to susceptibility to being attacked, wounded, or hurt. On this understanding, we are vulnerable to hostile others, inclement weather, accident and disease, and we are vulnerable to both physical and psychological attacks. Other people are then thought of primarily as sources of threats and only secondarily as sources of protection against attack, as we cooperate to defend against mutual enemies or to build shared defenses against disease or the elements.

Yet it is our needs that make us vulnerable, and we need far more than protection if we are to survive, let alone thrive. In addition, we need care, understood as "everything we do directly to help individuals to meet their basic needs, develop or maintain their basic capacities, and live as much as

possible free from suffering, so that they can survive and function at least at a minimally decent level” (Engster 2005, pp. 53–54). We are therefore vulnerable to others not only because they may attack or wound us but also because our neediness and limited ability to meet our own needs makes us dependent on others for care, always to some extent, and more dramatically when young, ill, or disabled.¹ Vulnerability is then, as Robert Goodin (1985) suggests, “an essentially relational notion”—we are vulnerable *to* others (p. 112), both to their actions and their inaction when we need their help (p. 110).

Like vulnerability, care is essentially relational, as we care for or are cared for by others. When we are unable to meet our needs without specific others providing our care, we are dependent on them and vulnerable to their being unable or unwilling to continue to give us the care we need.² Those who provide care, in turn, may be vulnerable because their determination to provide care, often without pay or at low pay, may make it difficult for them to meet their own needs. These connections between vulnerability, need, dependency, and care suggest that care theory can help us think generally about morally appropriate responses to vulnerability whenever one person is dependent on another or others. In addition, a focus on vulnerability can help develop the most compelling version of care theory. A vulnerability inflected care theory will remind us to attend to the vulnerabilities of all involved in giving and receiving care and to think about ways social arrangements can exacerbate or relieve vulnerabilities.

In this chapter, I argue that care theory, when properly inflected by attention to vulnerability, is an important resource in efforts to understand a hitherto philosophically neglected topic, the vulnerability of children to emotional maltreatment. Emotional maltreatment encompasses both abuse and neglect, and understanding it requires us to think about both the need for protection from harm and the need for provision of care that characterize vulnerability. Care theory can help us first to develop a clear account of the nature of emotional maltreatment and then to think about how to redress it, with several advantages over approaches to child abuse that emphasize children’s rights or best interests.

I develop a version of care theory influenced by attending both to vulnerability wherever it is encountered and to the role of social arrangements in generating or reducing vulnerability (section 1). Next I show how attention to the different domains of children’s relationships with their caregivers, can help us to identify the different kinds of emotional maltreatment to which children

¹ Scully, in chapter 8, discusses the varied reasons people with disabilities may face additional vulnerability in various life domains, including a built environment not suitable for their needs, vulnerabilities due to features of their impairment, and vulnerabilities due to discrimination and stigma.

² For further discussion of the conceptual connections between vulnerability and dependency, see chapter 7 by Dodds.

may be vulnerable (section 2). Then I discuss how various aspects of the social context of children's relationships with their caregivers and their caregivers' vulnerabilities can make children more vulnerable (section 3). The final section (4) of this chapter evaluates different approaches to addressing children's emotional maltreatment on the basis of the version of care theory developed in section 1.

1. Care Theory and Vulnerability

Care theory can serve as a resource to acknowledge our fundamental vulnerability and the resulting importance of care for survival and basic well-being (Engster 2005). We are vulnerable to those who provide or remove care and to those who do or should oversee it. In addition to general attentiveness to vulnerability, care theory stresses the importance of attending to particular and concrete instances of vulnerability and the social context in which care is delivered (Tronto 1993). If we are to do this well in philosophy, we will need to draw on work in other disciplines, including psychology and sociology. I do so extensively in this chapter. Care theory is sometimes misunderstood as solely about interpersonal relationships. While care is often provided by people in close relationships with those for whom they care, these relationships are by no means the only context for providing care. Care can be provided, especially in isolated instances, by strangers to the recipient of care, or by groups of people working together in an institutional environment. Failures of care can also be appropriately monitored by those not engaged in its provision. In a vulnerability-inflected care theory, we recognize that vulnerability makes claims not only on persons in close personal relationships with those needing care but also on others who are in a position to respond to needs, either individually or collectively (Goodin 1985).³

If care theory is to be true to its concern with meeting basic needs, then it must recognize the vulnerabilities and capabilities not only of those who receive but also those who give care. Only thus can it avoid undue paternalism (White 2000), avoid exploitation of caregivers, and properly support meeting the needs of all involved (Mullin 2011). In addition, if we are to reduce vulnerability, then we need to aim at a more equitable distribution of care so that some people needing care are not denied it and people providing care are not overburdened (Bubeck 1995). Finally, care theory recognizes that for a caring relationship to be successful, more than individual efforts (from both parties) are required. Caring relationships need social support (Kittay 1999). Because a

³ See chapter 7 by Dodds for a discussion of this claim, the generality of which is controversial. Calls to attend to others' vulnerability can, of course, be overridden by competing demands (including the need for self-care).

decent society has an obligation to address vulnerability in a way that does not assign an undue share of the burdens involved to some of its members, good caring relationships are entitled to social support.

Care theory developed in this way has significant resources to allow us to identify the vulnerabilities that arise not unavoidably but because of the morally flawed actions of others as well as morally flawed social structures and social policies. I prefer to speak of pathogenic causes of vulnerabilities, rather than pathogenic vulnerabilities, but share the view outlined in the Introduction to this volume and in chapters by Mackenzie and Dodds that vulnerability may be created or increased pathogenically. Vulnerability has pathogenic causes when it is created or increased by morally problematic relationships or social practices that make it more difficult for people to meet their own needs or the needs of those they care for. Since children's vulnerability is unavoidable when they are young, pathogenic causes of vulnerability are those that compound it. Children's vulnerability is pathogenically increased when their caregivers choose not to meet children's needs. It is also increased when their society fails to monitor children's care but has the resources to do so and when society assigns inappropriate levels of responsibility to meet children's needs to those who cannot or should not be expected to meet them without assistance and support.

All young children are vulnerable both with regards to threats to their survival and because of their need for care if they are to develop their basic physical, intellectual, and emotional capacities. By basic, I mean capacities, such as the abilities to reason, to imagine, to trust, and to recognize what they and others are feeling, that are required by any theory of the good life. Because a lack of care threatens both their survival and their development of such capacities, children are more vulnerable than most adults.

Care theory helps us to identify emotional maltreatment by directing our attention to the needs that are the source of children's vulnerability and the role of caring relationships in meeting those needs. What alternative approaches are there to understanding children's emotional maltreatment? One approach, often taken during legal proceedings, is to focus on what constitutes children's 'best interests.' David Gil (1975), for instance, defines child abuse as any difference between "circumstances of living which would facilitate the optimal development of children... and their actual circumstances" (p. 346). However, as David Archard points out, it is implausible to think that children are being abused or neglected whenever their welfare is not maximized (2004, p. 201), and it is misguided to discount parents' interests (both as parents and simply as individuals) (2003, p. 126). Care theory suggests that the latter error is both unfair to caregivers who have needs and vulnerabilities of their own and unlikely to result in good outcomes for the children who are vulnerable in relation to them.

Instead, the most plausible alternative approach is one that emphasizes children's rights (understood chiefly in terms of children's interests, since

when they are very young we are not concerned to protect children's choices). Archard (2004) offers a well-articulated version of this approach. He agrees with me in understanding abuse of children to include not only current harms to their basic well-being but also impairment of their development (p. 199). Children have a right, according to Archard, to a "minimally decent life" (p. 200), and this includes a right to "stable affective relationships with adult caretakers" (p. 201).

However, this last assertion demonstrates the oddity of rights talk in this context. While we might understand something like children's and parents' right to freedom from undue interference in their development of stable affective bonds, it is hard to understand how we might protect children's right to stable affective relationships in the absence of such. We typically think of rights as something we assert against others or that may be asserted on our behalf. Children's emotional needs can be met only in the context of close relationships with those who care regularly for them; therefore, children's interests in having their emotional needs met call for the formation and support of these relationships, which is rather unlike more standard rights. In addition, a care theory approach reminds us that to protect children's interests we do not assign specific others to meet children's emotional needs in the face of objections or protest. Instead we expect those who have taken on responsibility for them (e.g., by adopting them or not giving up birth children for adoption) to meet children's emotional needs or, if they cannot, to accept help in doing so or to allow others to step in to do so. While this could be compatible with a rights-based approach, such an approach would need to take on the important features of a vulnerability-inflected care theory previously sketched to adequately address children's emotional vulnerability.

Before proceeding to develop an account of emotional maltreatment, I briefly consider a philosophical objection to a care theory approach to this topic. Ian Hacking (1991) objects to thinking about child abuse by focusing on dysfunctional relationships because he feels this leads us to ignore the contexts in which these relationships take place. In response, I suggest that a focus on relationships can help us better understand how aspects of social context shape, support, and undermine relationships between children and their intimate caregivers. There are broader definitions of child abuse, such as that of the UK's National Commission of Inquiry into the Prevention of Child Abuse.⁴ In its account, any discrepancy between children's interests and their actual situations for which someone or some group may be held responsible is defined as abuse. Such definitions have the merit of drawing our attention to the many

⁴ "Child abuse consists of anything which individuals, institutions or processes do or fail to do which directly or indirectly harms children or damages their prospects of a safe and healthy development into adulthood" (NCIPCA 1996, p. 4).

ways children may be harmed. However, they may distract attention from the relationships that sustain or impair children's development.

2. Defining Emotional Maltreatment, Understanding Its Impact

Within child protection literature, emotional abuse and neglect were until recently considered of lesser importance than children's subjection to physical abuse or neglect. In recent years the situation has changed, and sociologist Dorota Iwaniec (1997) notes "... a growing consensus among professionals that emotional maltreatment is more prevalent than was realized: it is at the core of all major forms of abuse and neglect" (p. 370; see also Iwaniec, McSherry & Larkin 2007). Emotional maltreatment is a better predictor of long-term harm to a child than severity of physical or sexual abuse (Glaser 2002, p. 698). Children's vulnerability to emotional harm and emotional neglect is therefore one of their most significant vulnerabilities.

How can we identify emotional abuse or emotional neglect? Without a clear account, we will be hard-pressed to properly identify relationships that exacerbate children's vulnerability and are therefore pathogenic causes of it. I know of no other philosophical analysis of the nature of children's emotional maltreatment, and discussions in other scholarly literatures have reached no clear consensus. Guided by care theory, which urges us to attend to the specific nature of needs and the contexts in which those needs are met or denied, I argue that we can best understand emotional maltreatment by learning about children's basic emotional needs and how these needs are met in caring relationships. In what follows, I give an account of the four major domains of children's emotional needs, outline the consequences for children of emotional maltreatment in each domain, and then discuss interventions intended to protect emotionally vulnerable children. Although I attend to issues of cultural diversity, the bulk of the research I cite focuses on children in Australia, Canada, the United States, and the United Kingdom.

Within the field of child protection, approaches to defining emotional maltreatment differ. Child protection workers in some jurisdictions, such as Australia, are reluctant to proceed with a child protection intervention when they detect emotional maltreatment alone because of uncertainty over defining it and difficulty in proving it to the satisfaction of a court (Sheehan 2006). Psychologist Danya Glaser (2002) offers a framework for understanding emotional maltreatment that focuses on patterns of interaction and their relationship to children's psychosocial needs. Her categories of emotional maltreatment include emotional unavailability, unresponsiveness, and neglect and developmentally inappropriate or inconsistent interactions with the child (p. 705). Glaser's overall approach is consistent with important features of vulnerability inflected care theory, especially its stress on the importance of

attending to vulnerability and recognizing the role of close interpersonal relationships in responding to vulnerability. However, care theory directs us to develop a clearer account than Glaser gives of the nature of children's emotional needs and the role that relationships play in meeting or thwarting those needs. For instance, we need a sharper understanding of what constitutes emotional neglect to avoid circularity.

While children are generally vulnerable, they are particularly vulnerable to acts and omissions of caregivers charged with significant responsibility for keeping them safe and healthy and for aiding in their physical, emotional, intellectual, and moral development. Anyone charged with such responsibility, whether a child's biological parent or not, whether paid or not, is someone I term a social parent. Children's emotional needs, and hence their vulnerability to emotional abuse and neglect, must be understood in the context of their relationships with their social parents.

While attachment theory has its origins in work that feminists have justly criticized for its overemphasis on the importance of a mother's relationship with a child (Taylor 2004), attachment theory in its gender-neutral form suggests that secure attachments with a child's social parents are crucial to his or her basic emotional development.

Recent work suggests that there are different elements to a good relationship between a caregiver and a young dependent child (Grusec & Davidov 2007). While we need to understand the behaviours of social parents and children within a cultural context, because the meanings of different behaviours differ in varying contexts (Cole & Tan 2007), Grusec and Davidov suggest that we can nonetheless identify four different domains of a relationship between a child and his or her social parent: (1) protection and security; (2) control and developing autonomy; (3) identification with and belonging to social groups; and (4) reciprocation of the behaviour of others. This can be accomplished by focusing on the relatively universal goals of caregivers and needs of children. This is consistent with care theory's emphasis on meeting children's basic needs and attending to the specifics of those needs. By focusing on these domains, we can develop a better sense of the nature of emotional maltreatment.

For the remainder of this section, I examine the care-related vulnerabilities of children in relation to these domains, with a focus on the first and fourth domains, which most directly relate to children's vulnerability to emotional maltreatment. The first domain of protection and security involves not only keeping a child safe but also *feeling* safe by the caregiver's responding to distress with comforting behaviour. This impacts the child's ability to trust (both social parents and others) and to regulate his or her negative emotions (Davidov & Grusec 2006). Parental responsiveness to distress is also positively associated with a child's development of empathy. Given the dependency of a young child, and hence the absolute necessity of receiving care,

the inability to trust either at all or well is extremely damaging. Morality, in both the public and private domains of social cooperation and personal relationships, requires appropriate trust (Baier 1986, 1994), and hence children's moral development is thwarted when they are generally distrustful or inappropriately trusting.

The second domain is that of control and developing autonomy. Control is a matter of shaping children's behaviour and informing them of expectations while nonetheless allowing them to evolve their abilities to develop internal motivation and internal behavioural control. Both parents in more collectivist cultures and those in more individualistic societies value the development of children's autonomy (Killen & Wainryb 2000). Parents in different cultures will have different understandings of the best balance between conforming to external expectations and developing internal motivation, but all parents hope their children will acquire the ability to self-regulate their behaviour to conform to goals they accept. Failure to meet children's needs in this area deprives them of the ability to develop self-control and the ability to set and adhere to their own goals.

The third domain involves children's identification with and belonging to social groups and is influenced by parents' ability or inability to manage the kinds of behaviour children are exposed to by observing their social parents' behaviour and by participating in community routines and rituals (Grusec & Davidov 2007). Parents' violent or socially destructive behaviour toward those they interact with around children and their inability to protect their children from exposure to community violence, prejudice, and hatred can affect the social groups with which children identify and the behaviour they take to be expected and appropriate.

The fourth domain involves a child's proclivity to reciprocate the behaviour of others as well as exchanges of positive affect (warmth, interest, and mutual responsiveness) within relationships. Grusec and Davidov (2007) survey a number of studies that find parental warmth predicts children's self-regulation of positive emotion, development of conscience, and acceptance by their peers (p. 301). This is one of the rare domains in which children's relationships with someone other than mothers or fathers have been studied. Preschool and primary school teachers who have warm and mutually responsive relationships with the children they teach have been found to have a positive impact on children's later social interactions (Hastings, Utendale & Sullivan 2007, p. 653). Children's ability to understand themselves and others and to respond appropriately to others' feelings as well as their interest in reciprocal interactions with others are all affected by this dimension of their relationship with their social parents. A caring society will be sustainable only if children's ability to care for others, and their interest in doing so, is developed.

Children's failure to develop emotional competence because of problematic aspects of relationships with their social parents damages their emotional,

social, and moral development. The first and fourth domains of relationships between social parents and children are central to developing emotional competence. Emotional competence involves the ability to express emotion, and the ability to recognize emotion types, the situations that call for them, the emotions others are feeling, and one's own emotions.

Extensive sociological evidence ties emotional competence to social acceptance and positive social interactions based on empathetic responses to others, cooperation, and reciprocity (analyzed in Denham, Bassett & Wyatt 2007). Children in every culture have the basic need for emotional competence (Cole & Tan 2007). Failures to recognize, express, and regulate one's emotions decrease a child's ability to acquire personally meaningful goals and to control his or her behaviour to meet those goals. They make it difficult to develop positive and rewarding relationships with others because of the inability to understand others or regulate one's emotional responses in their presence, and hence they inhibit development of social skills and morality. Chronic stress resulting from the failure to inhibit negative emotions makes it difficult to attend to aspects of one's environment, and thus lack of emotional competence inhibits learning and intellectual development.

Relationships between social parents and children that fail to develop emotional competence are therefore a significant source of ongoing and widespread harm. Egeland's (2009) review of the negative effects of emotional maltreatment in childhood demonstrates a wide range of deleterious consequences from emotional maltreatment of babies through teenagers, including lesser social acceptance, lower academic performance, nonorganic failure to thrive, increased aggression, more social problems, and increased suicide. The most serious consequences follow emotional maltreatment of children under the age of two (p. 23). The broad-based effects of a failure to develop emotional competence demonstrate that their emotional needs are one of children's most significant sources of vulnerability.

The previous account of the chief domains of children's emotional vulnerability, and the role that relationships play in responding to or increasing vulnerability, is in keeping with care theory's emphasis on attending to concrete and particular instances of vulnerability and on examining the close interpersonal relationships that are the most important way of responding to children's vulnerability. However, this needs to be supplemented by attention to additional tenets of care theory, as outlined already. We need to focus on the social contexts in which relationships between children and their social parents occur, to the vulnerabilities of social parents and their need for social support, and to inequities in the assignment of caregiving responsibilities. Once we have a fuller account of the social contexts in which emotional maltreatment occurs, we will be in a position to assess approaches to addressing this important pathogenic cause of children's vulnerability.

3. Factors that Can Increase Vulnerability in Children and Their Caregivers

Children and their caregivers' vulnerabilities may be pathogenically increased when children's emotional needs are not clearly understood, perhaps because of attempts at cultural sensitivity or confusion between basic needs and debatable conceptions of children's best interests. Both parties' vulnerabilities are also increased when caregivers' vulnerabilities are ignored or when the demands of caregiving are unevenly distributed. Children's emotional maltreatment may fail to be identified because of confusion about what are culturally different but appropriate ways of meeting children's needs as opposed to behaviour that maltreats children. It is important to attempt to understand parents' goals for their children in a social context, which can be facilitated by consultation with other members of their cultural community. However, such consultation needs to be supplemented by critical reflection as to whether the cultural practice, even if not intended to harm, nonetheless fails to meet children's basic needs. Care theory emphasizes that some basic needs are cross-cultural, even though the specific behaviours needed to meet those needs will differ in different social contexts. Bernard and Gupta (2008) discuss concrete instances of problematic attempts to be culturally sensitive with regard to Black children in the child protection system in the United Kingdom (p. 486). They show that fear of difference can lead equally to excessive intervention or lack of intervention when it is required. Both responses pathogenically increase children's vulnerability.

By contrast, a focus on children's basic emotional needs can help guide interventions that might range from removing children from the custody of their parents to providing professional support for social parents or supplementing parental care with good quality daycare. Attention to the four domains of good relationships between social parents and children can help direct resources to where they are needed most. For instance, if a relationship between a child and a social parent lacks warmth and reciprocity, then play therapy may help (Dombrowski et al. 2005). By contrast, if a child has not received sensitive responses to her distress, she will need daycare that focuses on this aspect of her needs, and works to create trust, while helping her to learn to control her negative emotions. At the same time, vulnerable parents may need support to help with stressful aspects of their own life circumstances and education as to the emotional needs of their children.

Parents' vulnerabilities are too often ignored, thereby pathogenically increasing both their own vulnerability and those of the children in their care. While some of the philosophical literature on child protection acknowledges the importance of balancing children's needs and interests with those of their parents (Archard 2006; Hedman 2000; Struening 1996), much of the

academic literature and many statements of policy focus only on what are considered children's best interests. For instance, in considering whether or not fathers should be involved with their children after domestic violence has occurred, child protection workers in the United Kingdom are advised to ask *only* whether this involvement will be good for children and not also whether it will be good for the abused parent, most often but not always the mother (Featherstone 2009, p. 179). This fails to attend properly to the pathogenically caused vulnerability of the abused parent.⁵

As Archard (2006) points out, it is difficult to determine what we should take a child's best interests to involve since a maximizing approach to their welfare requires us to make clear distinctions between different levels of welfare. This inevitably involves contentious assumptions about the nature of the good life. In this chapter I assume that attempts to address emotional maltreatment should seek to avoid children's maltreatment by ensuring that their basic needs are met rather than seeking to make children as well off as possible. We should satisfice in this area by aiming at a threshold that ensures children are treated decently. This approach has the advantage of being less controversial than one that depends on a specific conception of the good life. In addition, as previously stressed, despite children's greater vulnerability, we have moral reasons to consider the interests of all the vulnerable parties in children's relationships.

Carolyn Cousins' (2004) work on the difficulty of balancing the vulnerabilities of parents with mental health problems and the vulnerabilities of their children provides a useful example to illustrate my approach. She focuses on the difficulties workers have when their desire to support parents conflicts with their realization that children's needs are not being met. My approach suggests we should focus on the different domains of children's relationships with their social parents, identify all who serve as social parents, and then consider whether there are strengths present (especially in domains one, regarding protection and security, and four, regarding warmth and mutually reciprocal interactions). If there are, but there are weaknesses in other domains, regarding identification with social groups and control and autonomy, then sensitive daycare might be arranged (publicly financed if necessary) to supplement the parent's strengths. However, if a young child spends considerable time with a social parent who cannot protect her and comfort her when she is in distress, or with one who is unresponsive to emotions other than distress, and does not initiate reciprocal encounters, then this will require either removal of the child or the presence of another social parent when the mentally ill parent is with the child. The removal could be temporary if the parent is able to develop the skills and understanding needed to meet the child's emotional needs, or it may

⁵ See chapter 4 by Walker for a discussion of the moral vulnerability of persons who have suffered abuse and then suffer again when their abuse is not acknowledged. See chapter 9 by Friedman for a discussion of factors that may excuse abused women who fail to protect their children from abuse.

be permanent. However, if the parent is well meaning and not abusive, some contact may still be appropriate; hence, the separation could be less devastating for the vulnerable and mentally ill parent.

Children's and parents' vulnerability may also be pathogenically increased when misguided assumptions about gender and care lead to inequitable distributions of care. Up to this point, I have used gender-neutral language, speaking of social parents rather than mothers or fathers. I now outline how child maltreatment may be understood through an inappropriately gendered lens, how inequities in the distribution of care may result, and how assumptions about gender may interfere with proper identification of maltreatment. All three pathogenically increase vulnerability. Overburdened parents are rendered pathogenically vulnerable, at risk of not having their own basic needs met, or made dependent on others who may be abusive or exploitative.

In previous work I have argued that despite public and private commitments to the importance of both men and women being involved in the care of children we still too often think that mothers are best suited to care for children's needs and that, should a substitute caregiver be called for, this person should be female (Mullin 2005a, 2005b). Until we do a better job disengaging gender from care, women will be burdened with more than their share of care work, children are less likely to have their needs met if their female social parents are overburdened and underresourced, and men will miss out on opportunities to connect with children in emotionally meaningful ways. It is also important to recognize, as Danielle Turney (2000) notes, that because care continues to be associated with women and mothers, so, too, failures of care are often conceived of in a gendered manner. She observes that social workers involved in child protection tend to focus on women and overlook male roles (something found also by Featherstone 2009). Studies tend either to investigate only relationships between children and mothers or to speak of parents but focus almost exclusively only on female parents (Turney, p. 51). This inappropriately makes the roles and responsibilities of fathers—or the men living with children and their mothers—disappear, and it means that interventions may not involve the men in children's lives or investigate the strengths and weaknesses of those relationships. All of these consequences may pathogenically increase vulnerability.

In addition, what is conceived of as neglect may be influenced not only by gendered assumptions about women's role as caregivers but also by gendered assumptions about what appropriate maternal care looks like. For instance, some work on child maltreatment uses a Mother–Child Neglect Scale to determine the presence of neglect. Not only does this leave men out of the picture, but also the way maternal care is conceived strikes me as gendered. For instance, “I kept my child clean” and “I kept the house clean” are 2 of the 20 criteria for determining maternal neglect, along with elements that do seem appropriate such as “I did things with my child just for fun,” “I

comforted my child when he or she was upset,” and “I told my child I loved him or her.” If the child or home were so filthy as to be dangerous to a child’s health, then we could see that as a contributor to neglect, but it doesn’t seem to be on a par with the other elements, and it strikes me that a Father-Child Neglect Scale, should there be such a thing, is unlikely to include such elements. Work on child maltreatment needs to think about how responsibility for care is assigned in our society in ways influenced by gender, race, and social class, and it needs to challenge those expectations (e.g., parents with more money are more likely to be able to afford paid household help to assist in keeping a home clean).

A gendered analysis of care is also important in creating parenting education courses aimed at men and women alike and courses that would aim to teach all adults—not just parents—about the emotional needs of children and how to detect emotional maltreatment, because gender influences reports of child abuse. Benjamin Levi and Greg Loeben (2004) note that reports of abuse are less likely to occur when either the victims or the suspected abusers are female (p. 279). This pathogenically makes female victims more vulnerable while also inappropriately protecting female abusers from investigation.

Public education around children’s emotional needs should make it clear that men and women alike may avoidably and hence pathogenically increase children’s vulnerability and that we should not have different standards of responsibility or behaviour when assessing relationships between men and children as opposed to women and children. The threshold of suspicion required to report could be fairly low without significant disruptions in families’ lives if child protection workers were given flexibility in determining how they should respond to reports, if reporters were urged to avoid gendered associations between women and care, and if potential reporters are reminded that emotional abuse and neglect are features of a relationship rather than matters of occasional interactions between a social parent and a child.

4. Remedies for and Responses to Emotional Maltreatment

So far I have explained how we can recognize the emotional maltreatment of children by specifically exploring the main domains of their emotional vulnerability. I explored the consequences of failure to meet those needs and attended to questions about the social context in which emotional maltreatment occurs by considering the vulnerability of children’s caregivers, caregivers’ needs for social support, and inequities in the assignment of caregiving responsibility. In all of this I was guided by a vulnerability inflected care theory. I turn now to an analysis of philosophers’ proposals to remedy abuse and neglect of children and develop contrasting proposals guided by care theory.

The philosophers I discuss are Carl Hedman, Mark Vopat, and Archard. Hedman's (2000) approach shares some features with care theory but insufficiently addresses vulnerability. I also offer some brief remarks about the approach of Eileen Munro (2004), a political theorist, whose approach echoes Hedman's in opposing state involvement, before moving on to discuss Vopat's proposals (2007) for parent licensing. I offer reasons based on care theory to argue that parent licensing is not the best way for a state to intervene in response to children's vulnerability, in part because it may pathogenically increase parents' vulnerability. Finally I discuss Archard's (2003, 2004) rights-based approach to social intervention in the case of child abuse and question whether it is in all respects a good approach to emotional maltreatment.

I begin with a discussion of Hedman (2000), since his approach is in some ways closest to a care theory approach. Indeed, he begins by asserting that the most important feature of families is that they are units that provide care to their members. He also shares my commitment to egalitarian principles, including equality in the distribution of caregiving responsibilities. He argues that we should learn from the African American tradition of othermothering (in which community members outside the immediate family unit help raise children) but with an increased role for men (p. 278). He thinks there would be less abuse of children if people raising children were happier sharing care and received greater social recognition of their caregiving. So far this is all to the good. However, the bulk of his proposals argue against state oversight of caretaker families, and here a version of care theory that attends to vulnerability must disagree.

Hedman (2000) argues that interventions by the state (which he views mainly as an assertion of children's rights) can undermine "community based mechanisms for promoting fair cooperative arrangements" (p. 270). In particular, he proposes that social workers should play a greatly diminished role, and he characterizes the problem of child maltreatment as a matter of avoiding free riders who attempt to reap the benefits of social cooperation without sharing in the burdens, an analysis I find puzzling. The problem of child maltreatment is a problem of a failure in the provision of care to the most vulnerable members of our society. State-down solutions are intended not to impose costs on attempted free riders but instead to ensure that children receive adequate care. They need not be articulated in terms of children's rights against their caregivers but can be understood as a matter of the state's responsibility to respond to vulnerability. Social workers can serve not only to remove children from situations where they receive inadequate care and there are no prospects for improvement but also to support children and their caregivers to ensure that both receive adequate care.

I agree with Hedman (2000) that we should encourage the involvement of other adults in becoming social parents as well as taking on lesser roles, but other adults might be abusive or neglectful. We therefore need public means

for detecting and dealing with abuse and neglect when they occur. Moreover, with increased involvement of multiple adults, there would invariably be conflicts between the various adults. We therefore need public methods for resolving those conflicts, such as access to help from social workers, or family mediation and arbitration to secure the various adults' agreement on a course of action.

Given children's vulnerability, and the impact of abuse and neglect on them long term, we need to encourage competent and discourage incompetent parenting by more than informal means. Informal help is unevenly available. We need public education around parenting and the needs of children and public recognition of sources of stress in many vulnerable parents' lives (e.g., poverty, lack of skills, and mental illness) such that they need support if they are to form the kinds of relationships their children need to develop and flourish.

Like Hedman (2000), Munro (2004) objects to increased state intervention in the lives of parents and children. More specifically, she objects to a UK government proposal for an Identification, Referral, and Tracking system, which is a departure from the system instructing professionals to report concerns about children's maltreatment only when they deem there to be a risk of significant harm to the child. The system she opposes would require professionals to flag early warning signs of trouble on a national registry of children. Some of her concerns are in keeping with care theory, especially her reminders that it is important that parents who seek support are able to access it and that decisions about what concerns to pursue should not be made mechanically (pp. 181–183).

However, Munro's (2004) account is pervaded by assumptions that "there are a few dangerous parents who seriously harm their children and go to great lengths to hide their crimes" (p. 183) and that "no one seriously doubts that most mothers and fathers care deeply about their children's welfare and can be trusted to seek help when necessary" (p. 183). Her views are premised on an understanding of child maltreatment as malevolent abuse, and she ignores physical and emotional neglect of children's needs. Any version of care theory that attends to vulnerability cannot simply trust parents or assume they will seek help. I therefore turn to a well-known argument for increased state intervention, namely, the advocacy of parent licensing.

While Hugh LaFollette (1980) and Jack Westman (1994) are also known for their advocacy of parent licensing, Vopat's (2007) work is a comprehensive and philosophically sophisticated account of licensing and its critics. Like LaFollette and Westman, Vopat argues that state action is justified not only after harm has been found but also to prevent harm and that incompetent and abusive parenting clearly causes harm. Vopat's five criteria for a parenting license are as follows. To get a license to parent, prospective parents must pass a drug test; must have a stable residence and income (from employment or social assistance); must be at least 18, have a high school education, and pass a

parent education course; must not have been convicted of domestic violence or violence against a minor or had a child in their care need protection; and must sign an agreement not to neglect or abuse their child. Parents who fail a drug test or have a history of domestic violence or child maltreatment would have a license denied and children removed from their custody, whereas those too young or without a high school education or parenting course might be granted a provisional license.

I agree that the state is justified in intervening to prevent harm to children. I also agree with Vopat (2007) that we should focus on minimally decent parenting rather than parenting that best meets children's interests, and I agree that we should encourage education about the needs of children and the skills required to care for them. All of this is consistent with a care theory approach. However, care theory directs our attention to all the relationships involved in meeting children's needs for care, and it directs us to attend to the vulnerabilities of all parties involved and hence the need for support for caring relationships. Since others beyond children's legal parents form social parenting relationships with them and all adults who come into contact with children are potential sources of both harm and detection of harm, I believe everyone should be taught how to recognize child maltreatment and what children need for their healthy physical, intellectual, and emotional development. This would be instead of requiring only parents to take a course explaining children's needs. Asking parents to sign a form indicating that they will not abuse or harm their children would underscore the importance of providing good treatment to children, but does not seem likely to affect outcomes. It might also wrongly suggest that state intervention depends on their breaking their signed promise.

When we attend to parents' needs and vulnerabilities, we realize that the requirement that parents graduate from high school is less directly tied to good care for children than a course explaining children's needs and could inappropriately discriminate against those parents with cognitive disabilities who are able to meet children's emotional needs as well as their other needs with some assistance. Since relationships with children are often extremely important to parents, denying some people the ability to form or sustain these relationships must be based on solid grounds. It would also often be inappropriate to apply a requirement for a high school education cross-culturally, as in many parts of the world many parents or would-be parents are unable to afford a high school education. The stable residence requirement similarly seems too strong and insufficiently attentive to parents' vulnerabilities, since children can have their needs met even without stable housing if parents have other strengths and social support, and loss of their children could be devastating for parents who lack stable housing.⁶ As for income, Vopat (2007) notes that he intends this

⁶ See chapter 1 by Mackenzie for a discussion of the vulnerabilities involved in homelessness.

to rule out only parents who refuse to accept social assistance or paid work, and I agree that parents who refuse to access social services, family or community support, or paid work are in no position to meet their children's needs. But since social assistance is rarely adequate, denying a parenting license to those in poverty is an excessively strong measure in the absence of more indication that children are being significantly harmed, especially in the absence of knowing the availability and quality of alternative parenting for children whose parents would be denied licenses.

Vopat's (2007) suggestions that parents who engage in substance abuse or have a history of domestic violence or child maltreatment should be denied a license to parent are more persuasive, but there are theoretical and practical problems even with those recommendations. The theoretical problems have to do with the need for more evidence that any amount of substance abuse sufficiently interferes with someone's ability to meet a child's needs, as opposed to varying with the amount of drug or alcohol use and the nature of the drugs. Even though evidence suggests that the children of mothers who regularly use drugs are at increased risk of needing child protection involvement, only 27% of children in a study whose mothers had significant self-acknowledged substance abuse problems required child protection intervention over a period of two years despite extensive monitoring (Street et al. 2008). While 27% is very high, the majority of children did not need intervention, and therefore monitoring, rather than denial of a license to parent seems more appropriate. We should also be aware of the possibility that someone with a past history of domestic violence or child maltreatment will have overcome those problems after seeking treatment and hence be deserving of a provisional license with the need for ongoing monitoring. Many interventions are aimed at that goal and there is evidence of some success. The practical problems have to do, again, with the scale of the social problems involved and questions about the availability of good parenting alternatives.

Archard, who grounds his own approach on children's rights, shares Vopat's (2007) view that current child protection policies put too much emphasis on the value of family integrity and parental autonomy. He believes that child protection workers tend to give too much credence to parents' supposedly natural love for their children (2003, p. 151). He argues that we need to address collective responsibility for the socioeconomic circumstances that make it difficult for many parents to meet their children's needs (2004, p. 204), and I agree, since children's and parents' vulnerability must be addressed not only by individual provision of care but also by state oversight and support for caregiving. Archard also believes we should encourage increased collective responsibility for children by increased provision of publicly funded preschool and kindergarten education, encourage an expanded network of foster parents and adoptive parents, diffuse responsibility for parenting among more kin and community members, and encourage all adults to take on responsibility for

all children such that any adult would find it appropriate to take on a parenting role for any child (2004, p. 217). In that last recommendation, by the lights of a vulnerability-informed care theory approach, he goes wrong because of downplaying the inescapable importance of close interpersonal relationships in responding to children's emotional needs.

In response to Archard (2003, 2004), care theory suggests that increased collective responsibility for raising children and for ensuring that they are neither abused nor neglected needs to be informed by close attention to the emotional dimension of children's needs. Rather than recommending that any adult find it appropriate to take on a parenting role for any child, we should think about the different domains of relationships between social parents and their children and should recognize that children need to know their parents well and be well known by them if they are to be comforted when distressed in a manner that teaches them both to control their negative emotions and to trust (domain 1) and if they are to develop emotionally warm relationships characterized by mutual interest and reciprocity (domain 4). Once children have learned to trust, recognize, and control their negative and positive emotions and to engage in prosocial behaviour, then they may extend their trust and their interest in emotionally positive relationships to other adults, but young children need to have intimate and ongoing relationships with one or more adults to develop the basics of emotional competence. If children are not having their needs met in these domains, particularly young children who have not yet developed the basics of emotional competence, then securing them access to adults who are capable of and interested in meeting their needs is vital. Increased awareness of the importance of children's emotional needs should therefore be accompanied by increased opportunities for monitoring children who appear at risk of emotional maltreatment and increased willingness to report suspected child maltreatment even when it consists solely of emotional maltreatment.

What about the second and third domains of social parenting relationships? Fostering children's autonomy while controlling their dangerous or harmful behaviour (domain 2) also needs to be informed by close knowledge of a child and requires sufficient emotional closeness to motivate a child's trust and cooperation but could be carried out by different adults in different domains of a child's life—for instance, in a preschool or daycare situation or in recreational activities supervised by the same adult over a long period of time. Archard's (2003, 2004) suggestion of increased availability of publicly funded preschool or kindergarten education is one that I strongly endorse. Sociological research on the emotional impact of preschool and primary school teachers supports the idea that children can develop their emotional competence as a result of good role models in their teachers (Hastings, Utendale & Sullivan 2007). Teaching children about the practices of social groups and allowing them to participate in group rituals (domain 3) could also be carried out by adults who

may not be as intimately associated with a child as is required for domains one (protection) and four (warmth). Children could often benefit from different perspectives about socially acceptable behaviour, although perspectives that endorse sexism, racism, or classism might come from legal parents, social parents, and less intimately close adults alike. Any responsible adult who understands children's basic needs could also be enlisted for the occasional act of protection when it is clear that a child's safety is at stake.

Doyle's (1997) research indicates that people who had been emotionally abused as children judged that their access to people who valued them and served as what the researchers termed *lifelines* made the biggest impact in their recovery (p. 338). Yet there has been little research on what features of children's relationships with adults might serve in this rescuing kind of capacity. One promising area for research, suggested by a vulnerability-inflected care theory approach, is to investigate the domains of relationships between children and the adults who serve as lifelines to see which aspects make the biggest contribution to their recovery.

5. Conclusion

In summary, care theory that attends closely to vulnerability and the factors that pathogenically increase it can help identify when children are emotionally maltreated and guide interventions that respond to maltreatment. Care theory helps us recognize that emotional maltreatment is a significant form of harm that impairs all domains of children's functioning and development. We can identify emotional maltreatment by recognizing the four key emotional dimensions of relationships between children and their social parents. Many forms of child maltreatment are not intended to harm children but follow from parents' inability either to recognize their children's needs or to provide for them due to their own lack of social, economic, or emotional resources. Caregivers are often vulnerable in many ways and should not bear a larger share of the burden of meeting needs of vulnerable children than is appropriate given the resources they have and the resources available to their society. Moreover, when social parents are vulnerable, the vulnerability of their children is increased.

We must look at children's relationships with all their social parents to identify if they are emotionally maltreated and to intervene appropriately to reduce this pathogenic cause of children's vulnerability. We need to be aware of gender, race, cultural, and class biases in identifying and reporting maltreatment but should not let attempts at cultural sensitivity lead to leaving a child in a situation that can be expected to significantly harm him or her. Child protection workers need to be empowered to respond flexibly to requests for help or reports of the need for intervention. Sometimes it will not be good to keep a

child together with his or her family, even if ending the relationship harms a vulnerable parent. Sometimes interventions to support the family should be tried, but on a time limited basis, particularly for children who have not yet acquired basic emotional competence. Good relationships with social parents, which do not threaten harm to the other parents involved, should be encouraged and maintained, if necessary with legal recognition. As care theory reminds us, interventions always need to be informed by the interests and vulnerabilities of all parties in social parenting relationships and by an understanding of the role of the social context in which a relationship is embedded, including issues of poverty and social exclusion. Only thus can pathogenic causes of vulnerability be reduced.

Finally, we need increased collective acknowledgment of responsibility for vulnerability. Responses that focus on children's emotional vulnerability may include increased public provision of quality daycare and preschool education, increased education aimed at all adults (not only parents and potential parents) about children's emotional needs and warning signs of emotional maltreatment, and increased reporting of concerns about children's emotional well-being. Greater attention to children's vulnerability may be encouraged by talk of children's rights. However, remedies for maltreatment need to focus on the crucial role played by relationships between social parents and children in meeting their emotional needs and hence the need to support or repair such relationships or to make new ones available when support is not accepted or not effective. A vulnerability inflected care theory keeps our attention firmly focused on the specificity of children's emotional needs, the social context in which those needs are addressed, and the need that both children and caregivers have for social support of caregiving relationships. It is therefore our best guide to understanding and addressing emotional maltreatment. The fruitfulness of the collaboration between the concepts of vulnerability and care theory in this instance suggests that a more general collaboration is also worthy of exploration.

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Vulnerability and Aging in the Context of Care

Rosemarie Tong

Sixty-five is the age when many people start to think of themselves as old and begin to come to terms with their mortality. The older we get, the more vulnerable we get. In the hope of deepening our understanding of the philosophically underexplored concept of vulnerability, I will explore vulnerability in the context of care. My analysis will have two parts: one descriptive; the other normative. Using the United States as a case study, the descriptive part will discuss who has responsibility for taking care of the elderly in three environments: (1) the home; (2) assisted living residences; and (3) skilled nursing homes. Is it the family, state, or some combination thereof? The normative part of the chapter will then critically examine these allocations of responsibility, asking if they are morally appropriate. I will conclude by arguing that both the family breadwinner ideal and the adult worker ideal need to be replaced by the adult caring worker ideal. Both men and women should view carework as their work. Together with women, men need to press governments to provide elderly people, some of their most vulnerable citizens, with adequate care, including publically funded long-term care insurance.

Vulnerability is a concept that is variously understood and defined. In a scatter shot approach, the following have been offered as synonyms for the condition of being vulnerable: “defenseless, liable, imperfect, unprepared, frail, susceptible, weak, helpless, open to, exposed, in danger” (Schroeder & Gefenas 2009, p. 114). In contrast, the *New Oxford Dictionary* defines this condition as “to be exposed to the possibility of being attacked or harmed, either physically or emotionally” (ibid). Perhaps one of the most gripping descriptions of vulnerability is provided by Judith Butler (2004):

We come into the world unknowing and dependent, and, to a certain degree, we remain that way. We can try, from the point of view of autonomy, to argue with this situation, but we are perhaps foolish, if not dangerous, when

we do. Of course, we can say that for some this primary scene is extraordinary, loving, and receptive, a warm tissue of relations that support and nurture life in its infancy. For others, this is, however, a scene of abandonment or violence or starvation; they are bodies given over to nothing, or to brutality, or to no sustenance. No matter what the valence of this scene is, however, the fact remains that infancy constitutes a necessary dependency, one that we never fully leave behind...there is no way to argue away this condition of a primary vulnerability, of being given over to the truth of the other, even if, or precisely when, there is no other there, and no support for our lives... (Pp. 23–24)

We are, then, all vulnerable, but, as Butler suggests, we are vulnerable in different ways and in different degrees depending on our particular circumstances. In this chapter, I focus on the vulnerability of elderly people, using examples primarily from the United States.

The age of sixty-five may seem relatively young in a world where, on the average, more men and women are living into their late seventies and beyond (Tavernise 2012, p. A4). Nonetheless, it remains the official age of retirement in many developed countries. By the time people hit their mid-sixties, they are beginning to feel their bodies slow and their minds fatigue. They are ready to be the beneficiaries of their countries' publicly subsidized care for the elderly and to claim certain senior benefits such as reduced costs at restaurants and cinemas and access to senior centers and gathering places (Brandon 2010).

To be sure, there are people in their sixties, seventies, and even eighties who do not view themselves as old, but most people in this age group at least admit they are no longer young. They realize they are less physically fit, mentally sharp, and resilient than they were in their prime (Friedan 1994). Tasks that used to be easy—carrying in the groceries, for example—may have become incredibly difficult. One needs help—perhaps a lot of it. Gone is the thought that one is invincible: one knows better. The older we get, the more vulnerable we get. We start to focus on our pending nonexistence. We begin to question, more than ever before, whether we are loved. Many of us become hungry for families and friends, wanting to consume them when they visit so as to fill the holes in our selves. We sense that we are falling apart. Like it or not, we human beings are all subject to decay, disintegration, disorder, and death, and our only real recourse is to hang on to each other. Thus, we owe it to each other, if we desire care for ourselves, to be there for each other when we most need each other. This kind of being there, of caring, is the work of men and women equally. It is simply too demanding to be shouldered by one sex in particular.

In the hope of deepening our understanding of the philosophically underexplored concept of vulnerability, I will focus on vulnerability in the context of care. My analysis will have two parts: one descriptive; the other normative.

Using the United States as a case study, the descriptive part will discuss a question raised in many developed and, increasingly, developing countries, namely, who has primary responsibility for the care of elderly people? (Fan 2007; Wisensale 2005). Here I will discuss who in effect has responsibility for taking care of the elderly in three environments: (1) the home; (2) assisted living residences; and (3) skilled nursing homes. Is it the family, state, or some combination thereof? The normative part of the chapter will then critically examine these allocations of responsibility, asking if they are morally appropriate. In answering this question, I will refer to Robert Goodin's (1985) vulnerability theory, Eva Feder Kittay's (1999) dependency theory, and Joan Tronto's (2005) citizenship theory. I will argue that Goodin's theory assigns the primary responsibility for eldercare to the family, whereas Kittay assigns it to the state. I will then argue that although Kittay provides a better account of primary responsibility for eldercare than Goodin does her account can be further strengthened by drawing on Tronto's work. Both the *family breadwinner* ideal and the *adult worker* ideal need to be replaced by the *adult caring worker* ideal Tronto suggests. In other words, only when both men and women view caring for elderly people as a collective as well as personal responsibility will the state systematically address the vulnerability of elderly people and those who care for them. It takes active engagement with elderly people to understand their particular fears and worries, and at present many men lack this kind of engagement. Thus, they are largely unmotivated to lobby in the public realm—the realm traditionally recognized as male turf—for the kind of publically funded long-term care elderly people need wherever they may happen to live.

1. Descriptive Narrative: Long-Term Care in the United States, a Case Study

As I understand it, long-term care includes not only health or medical care but also the kind of personal and household services elderly people need to get through their day. Drugs, visits by nurses, physical therapy, blood tests, and so forth are important, but so too are transportation from place to place, meal preparation, check balancing, laundry service, housecleaning, and the like. Also important, if not more important, is meeting the emotional needs of elderly people, for it is their fears, anxieties, and worries about being left alone at the end of their life or suffering from a wide range of unrelenting chronic diseases, for example, that constitute their particular vulnerability. Although the provision of long-term care is a worry that besets policy leaders and healthcare specialists in most developed countries and, increasingly, some developing countries (Brodsky, Habib & Hirschfeld 2003), in what follows I focus on the state of long-term care in the United States as an example.

1.1. LONG-TERM HOME CARE

Many elderly people live in their own homes or the homes of their relatives. There they take care of themselves with minimal paid or unpaid help. Some of these people are very healthy and live very long lives, filling their days with a combination of recreational pursuits and productive activities. Indeed, for financial reasons or simply because they are bored, an increasing number of people over sixty-five work part time, volunteer, or assume the role of full-time grandparents. This is also the group of elderly people most likely to value their independence and to age in place successfully (Cruikshank 2009, pp. 9–24). But the fact that some elderly people are fit as a fiddle in no way negates the fact that millions of elderly people need help with one or more of the activities of daily living: for example, toileting, bathing, getting in and out of bed, getting from one place to another, managing money, preparing meals, shopping, and housecleaning (Kane & Kane 1987). They also need stimulation, companionship, and, what is hardest to come by, love.

In my country, the United States, approximately 65% of home care for elderly people is provided by unpaid family members and friends, the bulk of whom are women.¹ On the average, female familial caregivers provide assistance from one to four years, but some women provide care to a family member for more than four years (National Alliance for Caregiving and AARP 2004) or even a decade (Thompson 2004, p. 4).² About one-third of female familial caregivers in the United States³ do paid work outside their home as well as unpaid work within their own home or that of the family member for whom they care. But because caring for a family member can be very taxing and time-consuming work, many female familial caregivers exit the paid workforce entirely or partially. Dropping out of the workforce costs female familial caregivers considerably, however. In an increasingly competitive economy, workers who exit the marketplace even for a short time may find it very difficult to reenter it (Cruikshank 2009, pp. 124–130; Stone, Cafferata & Sangl 1987, pp. 616–626).

Although many familial caregivers maintain that caring for elderly members is their “choice,” some admit that they are doing it because no other financial arrangement makes sense or simply because no one else is able or willing

¹ In the early 2000s, the percentage of female family caregivers was between 59% and 75% in the United States (National Center on Caregiving—Family Caregiver Alliance 2003).

² This state of affairs is as true in Japan and Italy, for example, as it is in the United States. Consider that in Japan daughters-in-law are still expected to take care of their mothers-in-law who may live well into their late 80s (Keiko 2007), and in Italy three-generation families have far from disappeared, with the mother of the household taking care of its youngest and oldest members (Galloni 2012).

³ Women in many countries do work both inside and outside the home. For example, one study found that married, employed women in the United States work an average of 25.4 hours in paid labor per week and 34.3 hours in unpaid labor. Married, employed women in Australia work an average of 18.6 hours in paid labor per week and 41.0 hours in unpaid labor (Sayer et al. 2009, p. 533).

to do it. Familial caregivers may find their work exceedingly burdensome, but they may feel shame in admitting so. To be sure, there are ways for familial caregivers to get help caring for their elderly charges. If they are affluent, they may employ a caregiver from a licensed private agency or an independent caregiver who responds to a newspaper or Internet advertisement (Adkisson et al. 2011). However, if familial caregivers do not have adequate funds, they may look instead to charitable organizations for help or to state authorities who increasingly realize that however expensive home care is it is generally less expensive than institutional care (Wurman 2004, p. 236).

If a familial caregiver decides on a private solution to the “care” problem, she had best pay heed to the adage *caveat emptor*. Over the past fifteen years, a home care industry has sprung up in the United States,⁴ providing a range of unskilled and skilled services to meet care recipients’ diverse needs. The higher-priced home care agencies tend to deliver better and more reliable care services to their clients than the lower-priced home care agencies do. However, the lower-priced home care agencies still charge more than those independent caregivers who are paid under the table with tax-exempt dollars. This last arrangement is illegal in the United States, however. It creates a two-way vulnerability. On one hand, independent care workers have to be willing to work long hours at cut rates for all sorts of clients, including some very difficult and demanding ones. They must also be prepared to risk major problems with the Internal Revenue Service (IRS) if they are citizens and with the Immigration Authorities if they are undocumented immigrants (IRS 2012; Roosevelt et al. 2001). On the other hand, familial caregivers and their elderly charges have to be willing to accept whomever knocks on their door. If they are lucky, they may find a caregiver who is attentive, competent, and even loving. But there is always the possibility that the person they hire might be a neglectful or abusive “caregiver.”

Admittedly, familial caregivers do not always have to turn to the private sector for help. Some Medicaid funds (the publicly funded health-care insurance system for the poor in the United States) are being allocated for home care rather than institutional care as a cost-saving mechanism (National Association for Home Care & Hospice 2008, p. 4). Accepting public funds carries some liabilities, though. In the first place, there is the stigma of being “on the dole” or exploiting the system. The dominant view in the United States is that people are individually responsible for saving enough money for their old age and that if they fail to do so it is unfair to ask more responsible people to pay their health-care bills. This view is rather harsh—after all, it is difficult to maintain a savings account if one is earning less than a minimum wage, for example. In addition, the take-care-of-yourself approach is alien to

⁴ The home care industry is not confined to the United States, however. Many other developed countries, including France, Germany, and Japan, use home care services (Barnes Reports 2011).

anyone who puts a premium on such values as solidarity and interdependence (Robertson 1999, p. 82).⁵

A second concern about taking public funds is that those who sign up for them must be willing to let the public eye into their private space. To accept welfare funds in the United States as in most countries is to be subjected to a high degree of supervision and discipline (Wilson 1995, p. 52). Familial caregivers may be questioned about their loved one's bruises and bumps; they may be told that their loved one's home is untidy or downright messy; and they may also be advised that their caregiving acts are not up to par or altogether deficient. A third worry about reliance on public funds is that their availability is ruled by political and economic winds. That which is given one year may be taken away the next. For example, in 2011, the city of New York decided to close about half of its senior centers, places where elderly people had been gathering for a hot breakfast and companionship for years. The senior centers were started in the 1970s when it was discovered just how vulnerable U.S. seniors could be. Strapped for cash, some poor elderly people were stretching their dollars by eating low-priced dog and cat food (Leland 2011, p. 25). They simply could not afford anything better. Closing the senior centers deprived elderly people not only of a daily hot meal but also needed human companionship (*ibid.*).

1.2. LONG-TERM CARE IN U.S. ASSISTED LIVING RESIDENCES

Not every elderly person who requires assistance with one or more activities of daily living wants to age in place. For them, "home sweet home" is a bitter living place. Some people may be without supportive family members and friends to take care of them in their homes; others may have no desire to live with uncongenial family members; and still others may have no desire to burden their families with their care. Provided they have funds, such persons may choose to live in an assisted living residence where paid professionals will help them get through the day.

In the United States, assisted living residences include both licensed and unlicensed facilities, ranging from basic service housing (retirement homes, personal care homes, board and care facilities) to continuing care communities, which combine housing, health care, and social activities and events (Wright 2004). Although U.S. Medicaid provides limited subsidies to a significant number of poor people living in board and care facilities, the amount provided varies considerably from state to state. Importantly, public monies are not used to help defray the costs of middle- and upper-income people who

⁵ Most developed countries, especially several European countries, the United Kingdom, Canada, and Australia, find the take-care-of-yourself approach not only uncaring but also unjust. The spirit of solidarity is very much alive within their borders (see, e.g., Illingworth & Parmet 2012).

live in full-service continuing care retirement communities. Although very rich people are not affected by this policy, middle-class people can exhaust their savings in a relatively short time in a continuing care community (United States Senate Special Committee on Aging 2010).

In the past, continuing care communities charged their residents a high entrance fee, upwards of hundreds of thousands of dollars, with the understanding that if any funds remained when the resident died the funds would stay with the facilities rather than reverting back to the residents' heirs. But this financial arrangement was soon rejected by both sides of the agreement. If a resident died very shortly after moving into a facility, his or her heirs would feel that they had received a raw deal. Similarly, if a resident lived more than twenty years or so, the facility would regret its gamble that he or she would be dead in under five years (Lewin 1990, p. 24; Tong 2007, p. 245).

In search of a better payment structure than this, many continuing care retirement communities adopted a "pay-as-you-go" monthly method of billing based on how much help the care recipient actually needed that month. These unpredictable, generally increasing monthly fees are not ideal, however. Many residents of U.S. continuing care retirement communities fear that their funds may be exhausted well before they die. They worry about being "kicked out" and ordered to move from a comfortable residence to a state-subsidized facility with few, if any, amenities. Fearing mistreatment, it does not take much reflection to recognize just how vulnerable these people are. One is left to fend for herself just when she is weakest and most in need of help (Tong 2007, pp. 247–248).

1.3. LONG-TERM CARE IN U.S. SKILLED NURSING HOMES

As I have already noted, most elderly people prefer home care or, if home care is not feasible or desirable, care in an assisted living residence. Nonetheless, in the United States over 40% of Americans enter a skilled nursing home sometime during their life (Centers for Medicare & Medicaid Services 2012a). In the United States, the decision to enter a skilled nursing home is not made lightly, for it is no secret that U.S. skilled nursing homes are not always as high quality or well staffed as they should be (Roe 2009). Overly drugged with pharmaceuticals that make them sleepy or passive, many nursing home residents who have taken care of themselves for years quickly become immobile, incontinent, or unable to feed themselves.⁶

As noted already, sometimes the care recipient decides to enter a skilled nursing home because she does not want to impose herself on familial caregivers, but just as often this decision is not the care recipient's. Sometimes familial

⁶ These problems are not unique to the United States. Abuse of antipsychotic medications has been reported in other countries (Degnin 2007).

caregivers no longer have the will or wherewithal to keep on caring for a loved one who is developing one chronic disease after another and who is requiring ever more hours in the way of care. They feel forced to tell their elderly charge that they won't or can't take care of her anymore and that their funds are such that even a modest assisted-living arrangement is not feasible (Centers for Medicare & Medicaid Services 2012b).

The initial reaction of most elderly people to family-initiated nursing home placement is intensely negative for at least two reasons. In the first place, there are often feelings of betrayal or being cast aside. Nursing homes vary dramatically in the United States. Some of them are like exclusive resorts where wealthy care recipients pay whatever it takes for privately funded long-term care. Others are rather basic living arrangements in which two types of care recipients reside. One group, often housed in the better wings of the nursing home, are middle-class people who start out paying their bills mostly out of pocket. But because the cost of long-term care is so high and getting higher (Bernstein 2012, p. A1), many of these residents go through their savings swiftly. They quickly qualify for public funds and join a second group of care recipients: the poor who are placed in minimalistic nursing homes, sometimes hundreds of miles away from family and friends because they have no or few resources of their own.⁷ In other words, in the United States, people have to be impoverished or on the verge of impoverishment to qualify for *publicly funded* long-term care (Binstock 1998, p. 10).

A second reason that many elderly people fear nursing home placement is that they view nursing homes as places where people go to die or to linger in a bedridden state for years on end (Cruikshank 2009, pp. 12–13). Fortunately, only a minority of U.S. nursing homes are “death houses.” Most of them are institutions that try to support elderly people's *living* together in a friendly environment (Deaton et al. 2002, p. 196). Importantly, many of them offer hospice care. When the time comes, they help the resident make the transition from the living process to the dying process in a peaceful, respectful, and kind way (Bercovitz et al. 2011).

Clearly, the quality of long-term care in the United States as elsewhere in the world depends on families' support or on one's socioeconomic class. Although many elderly people stay at home in the care of their families until they need to be hospitalized with a final bout of disease (National Center on Caregiving—Family Caregiver Alliance 2003), some do not. As we have just noted, this latter group live in homes away from home. As inadequate as some of these homes may be, they are still better than having no roof over one's head.

⁷ In 2010, Medicaid eligibility rules varied by state but generally stated, an individual may have no more assets than the poverty level. For couples in which one member is institutionalized, the “community spouse” could have a minimum of \$21,912 and a maximum of \$109,560 (Department of Health and Human Services n.d.).

Homelessness is a major problem in the world. It can result from war, natural disaster, or a series of events that leave one jobless, disconnected from family, and with few, if any, financial resources. For example, in 2011 there were approximately 643,067 homeless people in the United States, about 8% of whom were over sixty-five (National Alliance to End Homelessness 2011). For the most part, homeless people receive little or no health care, counting themselves lucky if they find a bed to sleep in at the end of the day and enough food to stop their stomachs from growling. Their plight underscores the fact that family and friends should not be the only people responsible for care of the elderly. The entire citizenry should view eldercare as their responsibility. The state needs to support publicly funded long-term care. It cannot view care of the elderly as something to keep out of sight and therefore largely out of mind. In the next section of this paper, I will discuss how several theorists address responsibility for eldercare. I will also argue that for the state to pull eldercare out of the private realm into the public realm requires men to view eldercare as much their responsibility as women's.

2. Normative Analysis: Assigning Responsibility for the Care of Vulnerable Elderly People

2.1. ROBERT GOODIN: PROTECTING THE VULNERABLE

The previous descriptive material indicates that with the exception of nursing home care, which is often publically funded, the rule for eldercare in the United States and in many other developed and developing countries is that it is an individual responsibility or familial obligation (Stuifbergen & Van Delden 2011). People should set aside enough money for their old age, but families should be prepared to care for their elderly members in the event they were either too poor to save much or too unwise to be thrifty, deciding instead to spend their money on pleasurable things. Among those theorists who view the family as having primary responsibility for eldercare is Robert Goodin (1985). As he sees it, over a long period of time, it has become the practice in most countries including the United States to think that adult children should take care of their parents when they are in need. It is this *need* and not some sort of formal agreement, says Goodin, that creates the obligation of care (p. 84). Most adult children think they owe their parents needed help because their parents provided them with life itself and material assistance throughout their childhood. What is more, adult children do not usually think of their filial obligations in quantitative terms. Goodin points to philosopher Jane English's (1979) comment "...that we do not ordinarily suppose that one's duties to one's parents cease once an equal quantity of sacrifice has been performed, as the phrase 'discharging a debt' may lead us to think" (p. 354).

Goodin (1985) emphasizes that the adult child's debt to his parents is neither contractual nor reciprocal. It is not contractual because it is not chosen on the child's part, and it is not reciprocal in a tit-for-tat way because thinking so would mean a child owed more to a woman who had a difficult pregnancy instead of an easy pregnancy or that a child who left home at twenty-eight instead of twenty-one had a 16% greater filial debt to her parents (p. 84). Yet another reason the reciprocity model fails, claims Goodin, is that it does not always apply to abusive parents. The abysmal conduct of abusive parents notwithstanding, some adult children still support them in their old age (p. 85). They either forgive their parents' trespasses or support them to prevent others from regarding them as cruel.

Repeatedly, Goodin (1985) emphasizes that it is elderly parents' needs that obligate adult children to care for them. In general, adult children are the people best positioned to take care of their elderly parents' needs. Somewhat controversially, Goodin maintains that children are responsible for providing parents with moral support under all conditions and with needed material support when they have the means to provide it. If they cannot help their parents financially, then the state should rise to the occasion. Responsibilities are greater where vulnerabilities are greater (p. 85), and the state may not stand idly by as some of its oldest and most frail citizens suffer.

2.2. EVA FEDER KITTAY: LOVE'S LABOR

Resisting what she calls the *pragmatic ought* in Goodin's (1985) theory, Kittay (1999) claims that according to Goodin we are burdened with those who need us simply because they cannot get along without us: that is, there is no one else better positioned to assume the responsibility. To illustrate her point, Kittay (p. 60) draws upon Margaret Walker's novel *Jubilee*. Having gone with his master to the Civil War front, Jim, a slave, wonders what to do now that his Master Johnny has been mortally wounded. Thinks Jim: "Master Johnny dying and he can't get home by hisself. I'll carry him home to his Maw where he can die in peace, but I sho ain't staying there." To which Kittay (*ibid.*) comments:

If Jim had been a field hand, such a delicate conflict would not have disturbed him. He would have felt no ties to the Dutton household, but he had nursed the old man and he had watched the children grow. Contemptuous as he was of Big Missy he was nevertheless tied to a strange code of honor, duty, and noblesse oblige which he could not have explained. So he was taking Johnny home.

Kittay maintains that Jim would be justified to leave Master Johnny because he has no obligation to him whatsoever, despite being well positioned to take on the responsibility of returning him home. The institution of slavery was an unjust social institution where a privileged group of people treated an

unprivileged group of people as a mere means to their own ends. Any “obligations” slaves had to their masters were null and void because the slaves were *coerced* to serve their masters.

Assuming that Kittay’s (1999) line of reasoning is correct and that it applies, say, to adult children who feel they have no choice but to care for their elderly parents, Goodin (1985) may have no convincing answer to her concerns. The traditional expectation that families have primary responsibility for eldercare was generated at a time when children lived close to their parents, longevity was far shorter than it is today, and women, the “natural” carers, stayed at home. Under these conditions, familial care could be given somewhat freely. But times are different today. Families scatter to different areas of the country or even the globe, elderly people live into their eighties and even nineties, and the majority of women are in the workplace. Under such circumstances, families may feel forced to take care of their elderly members. To the extent that contemporary families feel that they must sacrifice their life savings and even life plans to take care of their elderly members, they may reason that it is no longer feasible for them to take care of those who cared for them. As the old expectation that adult children should take care of parents weakens, a new one strengthens: namely, that the state should play the major role in eldercare. Elderly people feel entitled to state aid, however inadequate it may be.

Although Goodin (1985) agrees with Kittay (1999) that the state should help the family with eldercare when necessary, it is Kittay who provides a detailed argument for why this should be so. Rather than developing her dependency theory from the point of view of the elderly people who need care, as Goodin does, she develops her theory from the point of view of the persons who care for elderly people (pp. 49–74). Such caregivers (dependency workers) include both familial caregivers and paid caregivers who do the work of families (pp. 30–31).⁸

In articulating her theory, Kittay (1999) focuses on her mother. Her mother used to serve her father and Kittay’s dinner first and then, preparing a plate for herself, announce, “After all, *I’m* also a mother’s child” (Kittay 1999, p. 23). Mothers count as much as fathers and children do on the grounds of human equality. Everyone is entitled to a fair share of whatever resources are available, including care resources. We are all in need of care and love, and we all become extremely vulnerable when that care is withheld or simply absent.

In many ways, Kittay’s (1999) essential claim is that because we are all equally some mother’s child (p. 25) we have a collective responsibility to take care of each other, and it is through the functioning of the state that we can most effectively discharge this mutual obligation. Standing alone, the family is just as vulnerable as those of its members who currently need help. Thus, Kittay

⁸ For further discussion of dependency and care work, see chapter 7 by Dodds.

insists that the first goal of public policy must be “to empower the dependency worker with respect to her own interests and, whenever possible, to decrease the dependency of the dependent as well” (p. 37).

There are several ways for society to reduce the vulnerabilities of both dependency workers and the dependent people who are much in need of others’ care. The first measure, and a relatively low cost one at that, is the provision of education, counseling, and respite time for familial caregivers. This measure is not perfect, however. Although it can empower familial caregivers, it can also disempower them when not handled correctly. Sometimes education and counseling programs teach caregivers to accept a bad situation (Abel 1991, p. 175). To the extent that one is successfully miseducated or miscounseled to take it on the chin, so to speak, one will probably do more work than one should. In particular, women who care for elderly persons in the family will think something is wrong with them if they do not sacrifice their well-being to ensure that of others. They may feel profoundly flawed if they fail to love over and beyond what is humanly possible (*ibid.*).

A second way to reduce the dependency of familial caregivers is for the state to support structural reforms in the workplace such as job sharing, flex time, family leave policies, and on-site eldercare (Eckenwiler 2006). This remedy suits familial caregivers who are not that enthusiastic about work in the marketplace. But it does not fit career-driven workers who know that employees who travel the “mommy track” or the “daddy track” are unlikely to be promoted and rewarded in the marketplace (Palmer 2007). Moreover, a remedy that encourages caregivers to work part time does not help caregivers who need to work full time to pay all their bills.

A third remedy to improve familial careworkers’ lives requires more from the state than the first two remedies. Many familial careworkers need actual payment for the carework they do for dependents. Financial assistance for this group of familial careworkers might take the form of either a tax credit or a tax deduction for the expenses they incur helping elderly family members (Tong 2002, p. 210).⁹ Alternatively, such financial assistance might take the form of legislation enabling dependents to pay their family members rather than outsiders for home care services. There is, however, a problem with such forms of financial assistance. They do not benefit very low-income familial caregivers or dependents. These low-income people would need to be paid or subsidized directly by the state, a form of financial assistance that may provoke considerable scrutiny on the part of the state. Yet the price of such scrutiny may not be too high for those dependency workers who want to directly care for their elderly relatives but who cannot do so unless they receive some income. Similarly, the intrusion of the public eye may not be too high for those dependents who want to pay their familial caregivers directly (*ibid.*).

⁹ There are tax credits of this kind in Australia (American Elder Care Research Org. 2012).

Perhaps the best remedy for dependency workers and all dependents—whether they have familial help or not—is a major change in how people think about their social obligation to provide care for the vulnerable. The whole way some countries distribute goods and services, including housing, education, food, child care, and eldercare needs to be rethought. For example, the United States has yet to provide its citizens with a really adequate plan for long-term care. Creating such a plan would give dependency workers (most of whom are still female family members) a good chance of reaching old age in better condition and therefore would make them better able to take care of themselves and others. They would also have a good chance of being well taken care of in their old age at the zenith of their vulnerability (Tong 2002, p. 210).

Much research proves that worldwide people's health status is largely determined by social conditions (Centers for Disease Control and Prevention 2012). Worldwide, poor families have major problems diverting some of their limited resources to elderly parents or elderly relatives. Continuing-care communities are out of the question for working-class people, many of whom reach old age with just enough funds to stay in their own homes. And nursing homes vary wildly, some of them very comfortable but costly and others bare-bones institutions for the poor. Increasingly, the divide between health care for the rich and healthcare for the poor is growing (Blue 2008).

Worldwide, eldercare is a major problem because there will be at least 800 million people over age sixty-five by 2025 (World Health Organization 2013). Dependency careworkers, ranging from registered nurses to home health-care aides to the immigrant helpers many families hire, will be stretched thin. Unless the state steps in to decrease the divide between the rich and the poor by better supporting dependency workers and their dependents, chances are that more elderly people will feel very vulnerable indeed. Kittay (1999) is right to claim:

The rectification of such injustices is what a public conception of *doulia*¹⁰ demands. A public principle of *doulia* demands a reciprocation that calls upon a social responsibility to the charge and caregiver alike. A commitment to the equality of *all* requires an equality that is connection-based, an equality that acknowledges a common fate and shared humanity which lies as much in our need to care for others and be attended to in caring relationships as in properties we possess as individuals. (P. 183)

Kittay's principle is clearly a demanding one.

¹⁰ *Doulia* is derived from the Greek term for slave or servant. But Kittay gives the term a better spin, interpreting it to mean a caregiver who cares for those giving care for yet others (p. 107). For example, a *doulia* cares for a woman who has given birth so that she can tend to the needs of her newborn child.

2.3. JOAN TRONTO'S CITIZENSHIP THEORY

Building on Kittay's work, Tronto (2005) argues that, morally speaking, publicly funded care is to be preferred to privately funded care for four reasons. First, moving care into the private sphere permits well-to-do families to command more than their fair share of care resources. As was noted in the descriptive section of this chapter, rich people are able to use their dollars to buy as much in the way of health-care services as they desire. Poor people do not have this option. They are often on their own.

Second, privatization of eldercare increases the chance that careworkers will be exploited. Not surprisingly, Tronto (2005) stresses that it is women of color who increasingly do carework as they migrate from one country to another. Worldwide, says Tronto, the rise in women's migration to developed countries is due to their willingness to do carework that used to be done by families in the recipient countries (Eckenwiler 2009; Eckenwiler & Meghani 2009). In the United States, for example, the majority of illegal immigrants are women of color (Tronto, p. 134). Because of their illegal status, these women have to work in the private sphere. Barred from public work, their lack of residency and work papers makes them especially vulnerable to exploitation by their private employers. Not having acceptable options, they often tolerate verbal or physical abuse for fear of losing their jobs and having to fend for themselves on the streets or, worse, being deported.

Third, moving care into the private realm creates an *epistemology of ignorance*, according to Tronto (2005). For example, women who hire poor women to do their carework comfort themselves that were it not for their beneficence their careworkers would be worse off financially. They think they treat their caregivers more than fairly, making them part of their families in some respects. Unfortunately, these privileged women often do not realize how isolated immigrant careworkers can be, quasi-indentured to families that keep them hidden in the private realm with few, if any, means to network with people like themselves. If countries such as the United States were to open their borders to migrants, immigrant careworkers could get jobs in the public as well as the private sector. They would then have the freedom to bond with each other. They might even unionize to lobby for higher wages for all eldercare workers. Whether families who now hire inexpensive helpers for eldercare would welcome such a development is not clear, however. No longer would families be able to gloss over the fact that their employees need decent wages as well as a friendly atmosphere. Benevolence is not an adequate substitute for justice.

Fourth, according to Tronto (2005), keeping care private prevents an important discussion of what counts as "necessary" carework that one cannot do unassisted and carework that one can do. She suggests that if one's elderly mother lives far away, it is permissible to ask a careworker to tend to all her basic needs from meal preparation and bathing to recognized medical needs.

However, if one's elderly father lives next door, the burden of care should shift. A daughter or son should do her or his fair share of the total carework needed to maintain an elderly parent's household. It seems socially irresponsible to act as if one has no caregiving responsibilities at all.

Tronto's (2005) basic message seems to be that as we become enveloped in a culture of consumption and competition we not only have less time to do carework but also less desire to do carework (pp. 139–140). By keeping carework private, we avoid the kind of moral disapproval that might accompany other people seeing how uncaring we actually are. Hiring immigrant caregivers so that we can live entirely carefree exacerbates the vulnerability of those care workers. If we had publicly funded eldercare, we would have to engage in a social dialogue about how much carework the state can afford to give us and how much carework the state can reasonably expect us to do. This conversation ought to occur as soon as possible for just as the family is looking to the state for help with its eldercare burdens the state is looking to the family to do more eldercare gratis.

According to Tronto (2005), the United States is at a crisis point. Its citizens may choose to assign responsibility for care “along lines that continue to reinscribe the split between public and private life” (p. 138), leaving care as a private concern. Or they “may determine that care is a public concern, and may change their set of political values and priorities accordingly” (*ibid.*). It seems that Tronto would like the United States to become like a Scandinavian country, say Sweden, where people can count upon good long-term care largely because their demands for care remain well within reason. The Swedes usually live within their means. Moreover, they do not insist they have a right to everything modern medicine can provide. Rather, they count on all their fellow Swedes as well as their family members to care for them when they need living assistance in their old age. Knowing that one will not be left helpless as one weakens and ages goes a long way to decreasing one's vulnerability, one's fear that one is alone in the world (Stark 2005, pp. 20–23).

As its population ages, Sweden faces the kinds of eldercare shortage the United States faces. But, for the most part, Sweden has not sought to increase its supply of careworkers by importing them en masse from other countries. Instead, Sweden has encouraged its over-seventy-year-olds to keep caring for themselves if at all possible, and even more interestingly, it has turned to its men for help. Unemployed male workers within the industry or forestry sectors have been offered generous educational packages and enviable wages to entice them into the health-care sector (Johansson & Andersson 2008). And although Swedish men are not exactly flooding into the caregiving sector, their presence is starting to be visible. What is more, their female colleagues, who still palpably outnumber them, report that they welcome male coworkers because eldercare requires many heavy-lifting chores they find hard to do. If more men in Sweden (and elsewhere) begin to understand that carework is a

reasonable way for both genders to earn their living and contribute to society, there is some chance to degender carework, to stop it from being nearly exclusively women's work (Tronto 2005, p. 142).

If we look at the culture of Sweden, we can understand where the United States is (way behind, for starters), and what it would take to solve its eldercare worker shortage. Decades ago, countries like the United States began to feel exempt "...from honouring the commitment of collectively meeting needs, palliating insufficiencies, reducing suffering. The individual is called upon to care for himself, without any consideration as to his capability for doing so" (Kottow 2004, p. 286). Hiring thousands of inexpensive immigrant eldercare workers to do all their carework for them is not likely to help these countries look inward and see how vulnerable they and their citizens really are. On the contrary, doing so will, as Tronto (2005) suggests, simply maintain the status quo, which puts caregivers and their dependents at a disadvantage. What might help countries like the United States change the status quo is to move men into the private realm at the same rate as women moved into the public realm several decades ago. But effecting this change anywhere will be hard if, as Kittay (1999) writes, "...expectations that women will do dependency work" are somehow "...integral to our understanding of sexuality, to the shaping of emotional response, and to the creation of personality" (p. 188). My own view is that men's reluctance to do carework—especially eldercare work—is rooted in their fear of the body and its inevitable demise: disintegration, decay, and death.

When I was taking care of my bedridden, then dying father, my husband would simply not help me. He repeatedly told me he could not stand how my father looked—that his body oozed and exuded the smell of impending death. My husband did not want to be reminded that he, too, would be subject to death, that, like it or not, he was not immortal. But therein rests the problem: we are all mortal. We are all some mother's child, but we are also some father's child. Men, no less than women, should view themselves as embodied, as dependency workers. Tronto (2005) is correct to write that "not until Americans recognize that [they] are 'care receivers all' is there any hope of changing [their] political vision to make care more a collective concern" (p. 142). But I wish to add to her claim a further claim, namely, that not until enough people worldwide recognize that they are "care givers all" will there be any hope of changing their political vision to make carework more of a collective rather than individual concern. Only then will we human beings come to terms with our vulnerability, our fundamental fear that unless we can buy care, whether from strangers or family members, care may not be forthcoming.

Over the last fifty years in many countries, the adult worker (men and women) ideal displaced the family breadwinner (men) model, which was always a flawed model because of the large number of single, woman-headed

households needing to put food on their children's table (Giullari & Lewis 2005). When this change occurred, women entered the marketplace in very large numbers and competed there on fairly equitable terms. However, women's full employment in the marketplace did not lessen their caregiving responsibilities in the family. With the aging population and weakening global economy, states are looking to families to assume greater responsibility for eldercare. But unless men start doing their fair share of carework, women will be forced once again to leave the marketplace, losing their gains there. But this way to solve the eldercare "problem" is unfair. Men are some "mother's child." But so too are their wives, daughters, sisters, and mothers. And because this is so, a state-supported adult caring worker model needs to emerge, a model that views eldercare as a public as well as a private responsibility to be shared equally by both men and women. Only in countries where the state helps support its citizens' complex interrelationships of care is there any real hope of decreasing elderly people's vulnerability: their fear that they may find themselves alone in their greatest hour of need.

Acknowledgment

Segments of the descriptive section of this chapter are based on my thoughts in Tong (2007, Chapter 10). Moreover, segments of my commentary on Goodin (1995) and Kittay (1999) expand the argument in Tong (2002), and segments of the solutions to long-term care are derived from points made in Tong (2009).

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