Recognising Humanity

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ABSTRACT *Martha Nussbaum's* Hiding from Humanity, *links the philosophical understanding of emotion with important issues in ethics, law and political philosophy, and engages with empirical material in a manner that provides a model for open and practically oriented moral philosophy. Here I explore four areas in which I believe the discussion now needs to be carried forward. First, the connections between Nussbaum's work and other contributions to recent moral philosophy, principally that of Alasdair MacIntyre in* Dependent Rational Animals *(1999) but also that of David Wiggins in* Ethics *(2006). Second, the conceptual understanding of notions of disability, impairment and normal human functioning, and the standards against which these are determined and judged. Third, the nature of mental disorder and the harm done to sufferers by the stigma attaching to it. Fourth, the implications of following Nussbaum's lead in recognising humanity in the vulnerable, as these bear upon 'ending life' issues, especially that of abortion. Nussbaum's book serves to orient readers towards a cluster of important philosophical issues and specific policy areas; but it also raises questions that she might now wish to consider further.*

I. Introduction

In *Hiding From Humanity: Disgust, Shame, and the Law*[1] Martha Nussbaum addresses the place of emotions, and their objects, in the justification of law and punishment, and in the ethical foundation of political liberalism. She brings to the task a welcome combination of philosophical reflections and psychological insights, controlled and applied by an unmistakably humane sensibility. In this discussion I will touch on four matters.

First, there is the extent to which Nussbaum's approach parallels that of Alasdair MacIntyre in *Dependent Rational Animals*.[2] Their interests are convergent and complementary, and it may be that a systematic synthesis of ideas advanced by each would serve to strengthen the general case for reorienting moral, social and political philosophy so as to take greater account of universal human limitation and specific human disability. I shall not attempt that here but will begin by outlining a broad standpoint on the human condition within which the insights of both philosophers can be placed, noting towards the end of the section an apparent difficulty for the explicit structure of Nussbaum's own argument.

Second, there is the issue of the nature of disability and its relation to conditions such as handicap and impairment. I find reason to disagree with Nussbaum in respect of some conceptual claims but not, I think, in broad approach.

Third, there is the specific case discussed by Nussbaum of mentally disabled children. I would like to introduce the related, though in respects quite different, matter of mental disorder and the stigma attaching to that.

Fourth, acknowledging the strong case Nussbaum makes for recognising and respecting humanity in its weakness and dependency, as well as in its strength and (relative) independence, there is the question of what bearing this might have on the issues of abortion as this is justified by reference to the diagnosis of embryonic abnormality and anticipated handicap, and euthanasia as the latter is argued for by reference to incapacity, loss of autonomy and the approach of death.

II. Dependent Humanity

From conception, through gestation, in birth and in infancy, through our inclining and in our declining years, we depend on others: materially, educationally, intellectually and morally. We are, to borrow MacIntyre's phrase, 'dependent rational animals'. Furthermore, our rationality is developed in dependence on others, and it is part of our animal nature, aspects of which we share with other species. Recognition of this latter fact is important for shaping an accurate understanding of and respect for the lives of other non-human animals but also, and more importantly, for keeping in view our own bodily character and needs.

For some while, moral philosophers have been asking us to consider and understand what human beings have in common with other animal species, but in modern times it is only quite recently that they have urged us to attend to human dependency, vulnerability and disability. Martha Nussbaum's *Hiding from Humanity* is an important contribution of this latter sort. Whereas MacIntyre's main focus was the range and rationale of human virtue, Nussbaum is concerned with politics and law, and with the roles (good and bad) of emotions in relation to these. Both agree, however, that philosophers have given insufficient attention to our animal nature and to the extent of our dependence upon one another.

There is certainly something apt about this criticism, for advocates of virtue ethics have typically emphasised the role of habits of choice and avoidance in promoting a positively good, bright-eyed and bushy tailed kind of life. Admittedly, writing thirty years ago in answer to the question 'Why do men need virtues?' Peter Geach observed that 'we need courage in order to persevere in face of setbacks, weariness, difficulties, and dangers'[3] and went on to say that 'Men need virtues as bees need stings' suggesting their protective role; and others of the same generation of neo-Aristotelians, such as Philippa Foot and Geoffrey Warnock pointed out that virtue is made necessary by the fact that life is threatened with dangers. Even so, the dominant image has been of intelligent, educated, healthy and mobile adults, fashioning rewarding lives consisting of largely unimpeded activities. The mentally retarded, the physically disabled, the deformed, the senile, and others of similar conditions hardly feature in mainstream philosophical thinking about how to live. They or their proxies might well suppose that this is because contemporary moral philosophers conceive of virtue and the ends it serves in terms that necessarily exclude them. To judge from much of the 'virtue ethics' literature it seems the good life is one only lived by the able and independent.

Of course, even on that assumption it does not follow that the virtuous should have no concern for unfortunates, but such concern will typically be conceived of as external to the benevolent's own formation as a rational agent, and far removed from his or her well being. On this account interaction with the dis- and un-abled may be of value as

expressing a sympathetic and generous spirit, but it is inessential to the business of coming to live and of continuing to enjoy a good life. Relevant in this connection, since I will later return to the issue of life in the womb, is Rosalind Hursthouse's discussion of 'Virtue Theory and Abortion'.[4] Her principle concern is to respond to the charge that a virtues-based approach to ethics fails to provide a basis for decision, and she tries to meet that challenge by considering how the issue of ending a pregnancy looks from the perspective of virtue, rather than from those of duty or rights or utility. There is much of interest in the essay but for present purposes I want to identify a way in which the foetus is largely left out of consideration, or only enters indirectly.

The point I am concerned with has to be distinguished from another that Hursthouse herself makes. At one point she writes, with deliberate boldness: 'the status of the foetus — that issue over which so much ink has been spilt — is, according to virtue theory, simply not relevant to the rightness or wrongness of abortion (within, that is, a secular society).'[5] Her claim here is that while the virtuous person should certainly be concerned with the familiar facts of human reproduction: conception, pregnancy and birth, they should not look for guidance to some special metaphysical facts about the moral status of embryos. The seriousness of aborting a pregnancy is, or should be known to anyone of ordinary experience and sound mind: 'the fact that the premature termination of pregnancy is in some sense, the cutting off of a new human life, and thereby, like the procreation of new human life, connects with all our thoughts about human life and death, parenthood, and family relationships, must make it a serious matter.'[6]

Hursthouse certainly recognises that if there is an abortion then a human being ends up dead and that 'some evil has probably been brought about';[7] but the focus of her attention is on the attitudes, thoughts and feelings of the mother and what these say about the kind of person she is. The situation appears analogous to that in which philosophers have argued that the main objection to cruelty to animals is the harm done to human beings by allowing themselves to be vicious. What does not get much attention is the fact that the foetus is a vulnerable human being in process of biological development and existing in unique dependence on the mother, and that part of what it is to be a pregnant woman is to be formed by such dependence. In other words the moral relationship of the foetus to the mother is, like the physical one, internal and partly constitutive. A pregnant mother is not just a woman with a baby lodged inside her womb (which is one reason to resist Judith Jarvis Thompson's conjoined body analogy).[8] So to abort is to cut oneself free from an intrinsic intimate, existing in non-voluntary dependence upon one. Setting aside the issue of whether this is ever morally permissible the fact remains that virtue in this area should not be thought of as secondary to the agent's own formation, and removed from her well being.

MacIntyre observes that according to Aristotle 'since the recipient is inferior to the giver . . . magnanimous men find pleasure in hearing of the good they do, and none in hearing what they receive'.[9] MacIntyre draws attention to this not only to reveal that the attitude Aristotle avows now seems distasteful, and to indicate that his account of the virtues should be corrected so as to replace it with something such as humble generosity or, following Aquinas, *misericordia et beneficentia* (taking pity and doing good),[10] but more comprehensively to suggest that in this respect Aristotle's view, and a major strand in the tradition deriving from it go wrong in failing to recognise the intrinsic vulnerability and dependence of human lives. The virtuous man must needs

be disposed graciously to receive and is already indebted to others for his formation and for the social dimension of his life.

This provides part of a reply to the self-centredness challenge to virtue theory. As formulated by David Solomon in the context of discussing internal objections to ethics of virtue, this appears as the claim that even if virtues such as justice, charity or amiability restrict the attention an agent may give to his own interests, and require him to attend to the needs and wants of others, an asymmetry remains between a virtuous agent's regard for his own character and his attitude to the state of character of others. Solomon writes 'if I am suitably concerned about others, shouldn't my concern for them extend beyond a mere concern that their wants, needs and desires be satisfied, and encompass a concern for *their* character?'.[11] His response is to acknowledge some such asymmetry but to argue that it also occurs ineliminably within deontological and utilitarian theories. The relevance of MacIntyre's reminder of the modes of original and ongoing dependence is that it suggests that a proper concern for virtuous character, with regard to both doing and undergoing, will distribute itself across the self/other distinction. Character formation, and reformation, are social activities already expressing various kinds of dependency and concern, and in choosing to act to benefit another it may be that my concern with their needs is partly focussed on their character as something important for them and important for me. Some asymmetries of agent/ patient regard certainly remain ineliminable (and general to all theories) given a) the distinctness of persons; b) the requirement of personal responsibility; and c) and, relatedly, respect for autonomy; but MacIntyre's reminder of the extent, variety and depth of human inter-dependence diminishes the contrast between self- and other-regarding concerns, and provides a better context to accommodate the facts of human vulnerability and the virtues of receiving and as well as those of giving.

Martha Nussbaum is similarly mindful of the long-standing tendency of philosophers to work with an essentially positive, full-capacity, fully-functioning image of the human agent. Since her concerns are focussed on law and politics her attention is directed to discerning this sort of image in various picturings of the citizen. She writes first of the 'emphasis on 'perfection — self-sufficiency, competence, and (the fiction of) invulnerability' and links this to a second 'fiction' 'which has had and continues to have a profound influence on our very theories of social justice . . . the myth of the citizen as a competent independent adult'.[12] And just as in the Aristotelian scheme the concern for unfortunates will generally be thought of as secondary and optional, so for recent contractarian political theorists 'provisions for people who aren't part of the bargain will be an afterthought, not part of the basic institutional structure to which they agree' (op. cit.). Nussbaum's point is well illustrated by the following from Rawls *Political Liberalism* — and is heightened by the fact that the observation comes in a footnote:

> . . . since the fundamental problem of justice concerns the relations among those who are full and active participants in society, and directly or indirectly associated together over the course of a whole life, it is reasonable to assume that everyone has physical needs and psychological capacities within some normal range. Thus the problem of special care and how to teat the mentally defective are aside. If we can work out a viable theory for the normal range, we can attempt to handle these other cases later.[13]

Earlier Nussbaum characterises her own preferred 'imperfectionist' vision for society as follows:

> What I am calling for, in effect, is something that I do not expect we shall ever fully achieve: a society that acknowledges its own humanity, and neither hides us from it nor it from us; a society of citizens who admit that they are needy and vulnerable, and who discard the grandiose demands for omnipotence and completeness that have been at the heart of so much human misery, both public and private.[14]

One issue to which MacIntyre gives some attention, but on which Nussbaum is surprisingly silent, is the way in which vulnerable people and groups are disadvantaged not by direct stigmatisation (which she does discuss in relation to dominant groups subordinating and stigmatising others by projecting onto them features found to be disgusting or shameful), but instead by being made the objects of forms of interest, concern or pity that entrench inequalities while putting them beyond the reach of challenge. MacIntyre mentions Foucault as one who 'reminds us that institutionalised networks of giving and receiving are also structures of unequal distributions of power, structures well-designed both to mask and to protect those same distributions'.[15] Nussbaum might find it helpful to consider analogous possibilities in relation to the ways in which pity is often directed towards the groups she selects for attention, in particular the economically disadvantaged, ethnic and racial minorities and the disabled.

Yet while this would be useful in analysing the mutual influence of emotions and political attitudes, it would also highlight the fact that not only pity but also the emotions that she identifies and partitions into politically good and bad categories are all Janus faced. This fact cuts deep into the structure of Nussbaum's argument; for while disgust and shame may be expressions of irrational disquiet about being human (weak, vulnerable, helpless against death, and so on), they may also be deployed in defence of that very status and in true recognition of its imperfection, and natural imperfectability. Likewise, anger, indignity, fear, grief and compassion, which are identified as particularly important in 'a political-liberal society, based on ideas of capability and functioning'[16] may, like pity, be expressions of irrationality and vice, and instruments of oppression.

Finally in this section in which I have been concerned to identify points of resemblance and complementarity between Nussbaum and MacIntyre it is worth introducing, in only briefly, a third contemporary philosopher who like these others registers a debt to Aristotelian thought and sees in it a better resource for an understanding of justice between persons than is provided for in liberal contractarian theories. In his recent book *Ethics*, David Wiggins develops a series of 'Neo-Aristotelian reflections on justice' out of which emerges a challenge to the Rawlsian construction of various moral-political ideals.[17] Here, however, I am concerned with the background to these in what he describes as 'a first-order ethic of solidarity and reciprocity'.

Again like Nussbaum and MacIntyre, Wiggins emphasises against consequentialists and Kantians, the diversity of sources of morality. There is no single ultimate value or principle from which others may be derived or to which they contribute as parts. Yet there is a core to human morality, namely, the recognition of the common lot of human kind and the felt need to act out of solidarity, protecting one another from, and certainly not inflicting, 'menaces'. In connection with this idea which he also associates

with Philippa Foot[18] he writes: 'In confrontation with the human form, we immediately entertain a multitude of however tentative expectations, relating to the possibility that presents itself there of converse or colloquy, of interaction, or of treating with a personal being'.[19] The context suggests that Wiggins is here writing of the normal case, but allowing for an unfolding of the ideas of interaction and of treating with, the point can be generalised to embrace all states and stages of human life. Certainly the dependent and the disabled are no less possessed of 'personal being' as Wiggins, I think, intends us to understand this expression. On the same page as the sentence I have cited he quotes Simone Weil writing of the 'indefinable influence that the presence of another human being has upon us'.[20] She too takes no space to identify different phases, categories or conditions of mankind, though she registers how that influence lapses in the circumstance in which one is preparing to inflict death or injury on another human being. This insight reveals that the phenomenology of encountering the human other, is subject also to the influence of one's attitudes, in particular one's moral dispositions, which in turn suggests a role for education in preserving and refining benign sensibilities (and of curbing malign ones). The idea of ethical solidarity and that of natural responses to the human form provide welcome supplements to the position already converged on, but they also pose challenges to policies of ending lives acknowledged to be human. Put another way, and one that has suitably Aristotelian resonance, the moral force of the appeal to recognising humanity derives, and cannot be willed away from recognising the human form in all its stages and conditions. I return to this at the end.

III. The Nature of Disability

In the penultimate chapter of her book, Nussbaum discusses the need of the institutions of society to go beyond the avoidance of stigmatising vulnerable people and groups, and protecting the dignity of citizens against shame and stigma. The agencies and mechanisms in question are those of law, but as becomes clear in the final chapter she is concerned also with political structures, and more broadly with social justice. Nussbaum observes that: 'no group in society has been so painfully stigmatised as people with physical and mental disabilities' and in the course of the following three pages writes the following (which I need to quote at length):

> The first point to be made in confronting the pervasive effect of shame and stigma is a familiar one, and yet it evidently needs repeating, since one hears so many arguments that ignore it. This is, that a handicap does not exist simply 'by nature' if that means independently of human action. We might say that an impairment in some area or areas of human functioning may exist without human intervention, but it only becomes a handicap when society treats it in certain ways. Human beings are in general disabled: mortal, weak-eyed, weak-kneed, with terrible backs and necks, short memories and so forth. But when a majority (or the most powerful group) has such disabilities, society will adjust itself to cater for them. . . .
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> The problem for many people in our society is that their disabilities have not been catered for because their impairments are atypical and perceived as

'abnormal'. There is no intrinsic 'natural' difference between a person who uses a wheelchair to move at the same speed as a person walking or running and a person who uses a car to accomplish something of which her own legs are incapable. In each case, human ingenuity is supplying something that the body of the individual does not. The difference is that cars are typical and wheelchairs are atypical. . . .

. . . We may grant that some central functional capabilities are not just typical, but also very useful — good things to have in pursuing a variety of different human plans of life. In so judging, we need take no stand on the contested question of whether these abilities are 'natural' in any value free sense. Without any such controversial claim, we may say that seeing, hearing, locomotion of the limbs, et cetera, are valuable instruments of human functioning, and thus reasonable things to shoot for in thinking about what a system of health care should promote. They are thus political goods, whether or not they have any particular metaphysical or 'natural' status.[21]

Here it is possible to separate the normative, social and political conclusion from the reasoning preceding it, and it is important to do so, since that reasoning is, I believe, faulty and of such misdirection that it could be invoked in opposition to the conclusions Nussbaum wishes to advance and for which I have sympathy. In the discussion from which I have extracted this extended quotation a number of notions are brought into play: handicap, impairment, ability, disability, capability, typicality, atypicality, normality, abnormality, the intrinsic, and the natural. Individually separating and then exhaustively connecting these is the sort of task once beloved of conceptual mapmakers. My interest is more limited and so therefore may be my analysis.

In one familiar use of the term a 'handicap' does refer to relative advantage or disadvantage in a competitive context; but in another equally familiar use it refers to a physical or mental disability. In that second sense an impairment of a natural capacity is a handicap in the effort to perform an activity quite independently of how society treats it, or of whether the activity occurs in a competitive context. Someone born without legs suffers the handicap of being unable to walk. That is a handicap because human life involves walking as a natural element of it.

Human beings are not in general disabled. Mortality is not a disability; it is a state of being. If it were a disability there would be an implied counterpart ability immortality, which, being possessed of it, one could exercise, or refrain from exercising; but there is no literal verbal form 'immortalising' (or indeed 'failing to immortalise'). Admittedly there is the poet or songster sense of immortalising in verse or lyric but that relates to rendering unforgotten; likewise the ambition of attaining immortality is a hoped for state not an achievable task. Like being mortal, 'being immortal' is again a condition. The familiar premise 'All men are mortal' expresses common knowledge about the human condition; it is not believed that some men are immortal or indeed that any living species is. Being weak-eyed, weak-kneed and so on are not evidence of any general human disability. They mark sections on a series of spectra, or ranges of abilities or structural properties. Evidently they are contrastive notions that presume dimensions along which individual capacities are or could be distributed. Some people have strong eyesight, some weak; some are strong across the normal range of sight, some are short- others long-sighted. Deterioration of eyesight conforms to a familiar

and explicable pattern with exceptions lying to either side of the main distribution. Even if a disability is widespread it is not evidence that humans are generally disabled. There is no relevant sense in which human beings are in general disabled; for that would require a standard of general ability which human beings in general failed to meet.

There is an intrinsic natural difference between a person who uses a wheel chair to move at the same speed as a person walking or running, and a person who uses a car to accomplish something of which her own legs are incapable. Assuming the latter is understood in the natural reading it refers to moving at speeds greater than those which human beings *per se*, are capable of achieving and maintaining by walking or running. In that regard the use of a car is not a substitute for a naturally accomplishable human activity; whereas the use of a wheelchair to move at the same speed as a person walking or running is precisely that. In other words while it may be true that 'in each case, human ingenuity is supplying something that the body of the individual does not', it is false that the cases are analogous in the relevant respect: one accomplishes by artifice what can normally be achieved by natural performance, the other achieves by artifice what it is impossible to accomplish by natural performance. The typicality or otherwise of cars and wheelchairs is quite beside the point.

Apart from getting clear about the facts and the ways in which they are represented by the concepts of nature and ability, all of this matters because Martha Nussbaum wants to invoke the idea of human capabilities to ground an account of justice in the distribution of goods, and in particular to argue that disabilities should be compensated for because they are impediments to human functioning, and hence to well-being. But if it were the case that the very idea of handicap or disability were socially relative, in the relevant sense, then it would be open to someone to say that there is no independent measure against which it could be shown that some set of people are inappropriately disadvantaged. Both the measure of disability and the question of whether it should be compensated for would be 'up to society'. It is not in the interest of the kind of approach to ethics and politics that Nussbaum favours, and to which I am sympathetic, to abandon the idea that sight, hearing, locomotion, and other functions are natural goods.

Fortunately, however, the fact that society may ease or not the impact of a disability goes no way to show that handicap is a socially relative concept. What is the case is that most of the concepts in the area are not simple empirical ones, but have normative aspects in virtue of relating to functions. Nussbaum shares Rawls's concern to avoid controversial metaphysical assumptions in fashioning a liberal political theory, but a recognition of the functional character of descriptions of human activities and organs need not embroil one in controversial metaphysics — even if there may be some deeply metaphysical accounts of the teleological character of human activity.

IV. The Burdens of Mental Disorder

Nussbaum offers an interesting and welcome discussion of the education of children with severe mental disabilities. I should like to call attention to a related group: people with mental disorders. Concepts of normality are particularly pertinent in this connection and the stigma associated with adult psychopathologies is particularly powerful and

often crueller than that directed against mentally disabled children. In approaching the matter I begin with some brief general observations.

The current state of philosophical thinking about the nature of the psychological is broadly anti-reductionist. That is to say, while probably most philosophers believe in the physical basis of the mind, they do not suppose that psychological categories are reducible to physical ones. Thus, the identification and explanation of mental states is taken to proceed by reference to criteria that are ineliminably psychological. There are several arguments for this conclusion. Here is one.

Any concept or predicate has associated with it conditions for its correct application. In the ideal case these amount to a strict definition but often things are hazier: the predicate 'is a triangle' has fairly straightforward application conditions (those that define triangularity); the predicate 'is a poem' is much less determinate. Reflecting on different classes of predicates leads to the thought that there are certain framework conditions for their application. For example, 'is red' presupposes actual or possible visibility; 'is divisible by 2' does not. In general we can define physical predicates as those the application of which presupposes certain framework conditions such as being spatially located, having mass, and so on including (perhaps) being subject to deterministic causal laws.

Next, notice that many and perhaps all mental predicates do not presuppose such physical conditions, e.g. 'is thinking about logic' does not seem to presuppose being spatially located. What psychological terms do imply, however, are certain holistic and rational conditions. Thus it makes no sense to say 'X fears Y' unless we suppose that X has certain beliefs, including ones about Y, and relevant desires. Beliefs, desires, and so on exist as parts of networks of such states. Further this holism of the psychological involves relations of coherence and intelligibility. In applying psychological descriptions we have implicit recourse to a psychological profile of the subject (and of social types and of human beings more generally) in which these descriptions are required to cohere with others. As with the earlier case of disability presuming its counterpart, abnormality is conceivable within this but only against the background of a 'normal' psychology.

The upshot is that any attempt to identify the physical and the psychological so as to give explanatory priority to the former is liable to refutation by imagining circumstances in which according to the neurophysiology a person 'should' be mentally impaired or in a state of depression, but his or her behaviour interpreted holistically in accord with psychological criteria shows them to be competent or untroubled. At the end of the day, one might say, 'disabled or troubled is as disabled or troubled does (or fails to do)', and no amount of non-psychological data can refute this. As well as the theoretical interest of this conclusion it provides an obstacle to scientistic approaches to human psychology and psychopathology.

Can an individual human being come to personhood outside a social context? The question sounds an empirical one the answer to which may well be 'yes'. There has, however, been a long developing consensus within philosophy that the question is not in fact empirical and that the answer is 'no'. The reasoning broadly is that personhood is a necessary product of interaction with others. For example, it is widely accepted that language is intimately connected with thought and that while human beings may have a natural potential for language this requires to be triggered by a linguistic environment. In brief, babies do not and cannot teach themselves English or any other

language. Relatedly, it is generally supposed that the notion 'I' can only be applied by a being that has the idea of others ('you' 'him' 'her') and the capacity to view him or herself as an object of attention and interest to others. In short my ability to think of myself as a psychological subject is linked to my ability to think of others as subjects, and to think of them as regarding me as one. No other, no self; no linguistic community, no language development; no language, no thought; no society, no person. These appear to emerge as necessities of constitution not mere empirical generalisations.

We saw that in applying psychological predicates there are certain presuppositions about coherence and intelligibility. That is to say we make assumptions about what someone *ought* to think or feel in various circumstances. If someone says 'I am afraid of health' and their behaviour is otherwise ordinary — they don't make efforts to become sick, or refuse treatment when ill, etc. — then we will treat the claim as ironic, or insincere, or as confused. Likewise, if someone were to say, 'I believe it is absolutely impossible to fly unaided but I am going to do my best to achieve this' we would suspect that they did not understand what they were saying or did not really mean it. This is because there are constitutive norms relating belief, intention and action.

Less logically rigid, but no less important, are the general society-specific expectations of normal psychology. Social historians interested in changing views of behaviour have speculated about the sources of these views and the causes of change. A favourite example is sexual behaviour and associated claims of insanity, pathological deviation and so on. At one point incomprehension, disbelief or utter revulsion at the suggestion of certain practices would have been criteria of psychological normality; at another point the very same reactions might themselves be taken as sure evidence of psycho-pathology. Notwithstanding what I argued earlier about the concepts of natural ability, and invoked in opposition to a general thesis of the social construction of nature and normality, it is clear that what counts as reasonable or unreasonable, regular or deviant, healthy or morbid, and so on, may differ across societies and across times. Additionally, rates of change and the departments of life in which change occurs may themselves vary. Plausibly the period since the Second World War has been one of the most active so far as changes in assumptions about normality are concerned. It is as well to remember this when thinking about 'mental disorders'. Certainly one needs to be mindful of the possibility that conditions now regarded as involuntary pathologies may come to be viewed as legitimate lifestyles.

The implication of these comments is first that the idea of mental disorder can be made good sense of at the level of humanistic interpretation, but second, to a greater degree than those of physical handicap, disability or abnormality, its application may be subject to social influences. Drawing the lesson Nussbaum offers regarding the ways in which general anxieties about human vulnerabilities (in this case to mental incapacity and disorder) may be projected on to vulnerable groups who are then made objects of transferred disgust and socially stigmatised, we should be particularly attentive to the harms liable to be borne by and inflicted on those identified as mentally disordered.

Historically 'stigma' denotes a mark or brand impressed on the skin by a stick usually to identify a slave or criminal. On that account it carries the connotation of disgrace and shamefulness, and thus reason to avoid association with those bearing it. In discussing stigma Nussbaum makes use of a study by Erving Goffman on stigma[22] but there is more recent and methodologically more robust material to hand on the effects of stigmatisation of the mentally ill and incapacitated.[23] Encounters with the

mentally disordered are often described as frightening or disturbing, and that encourages avoidance and alienation, but for the most part stigma results not from direct experience of difficult behaviour but from misconceptions about mental disorder, including most prominently the belief that it is associated with violence. One US study showed that while about 2.5% of mentally ill patients might be categorised as dangerous, prime time television depictions of the mentally ill represented over 75% as being violent, particularly towards strangers.[24] Meanwhile among persons convicted in the US for homicide those with no identified mental illness were more likely to have killed a stranger than those with symptoms of mental disorder.

Citing Goffman, Nussbaum writes in relation to attitudes to children with Down's Syndrome that 'the entire interaction with such a person is articulated in terms of the stigmatized trait, which means that the person's full humanity cannot come into focus'.[25] Stigmatising mental disorders adds further injury to marginalisation: on the one hand such people are represented in ways that demean and debase them, thereby damaging both their reputation and their sense of self and of self-worth, and on the other they are harmed through unfair treatment in respect of such goods as employment, housing and health care. In short, stigma both *constitutes* and *causes* injury. Furthermore, consequent upon marginalisation and these other effects, sufferers are less likely to seek treatment and so are liable to deteriorate producing a further and deeper cycle of stigmatisation and suffering. I entirely applaud Nussbaum's selection of the issue of disability as an example of unjust shaming and encourage her and others now to consider also the circumstance of the mentally ill.

V. Recognising Humanity at all Stages and in all Conditions

In other works to which she makes reference (*Sex and Social Justice* and *Women and Human Development*)[26] Nussbaum relates the needs and capabilities associated with sex to concerns about privacy, autonomy, reproductive and other civil rights. In *Hiding from Humanity* the focus of discussion of sexuality is the marginalisation and shaming of homosexuals and lesbians, but elsewhere she addresses the interests of heterosexual women in relation to the practice of sex-selective abortion that has been encouraged and even enforced in parts of the world where sons are deemed more desirable than daughters. On this account females suffer twice over: once as mothers pressured to undergo medically unwarranted terminations; and then as foetuses being made the targets of abortion. Evidently the cultural pressures in countries such as India are so strong that women themselves are generally reluctant to witness to the extent of forced abortion, even though parliament had prohibited sex-selecting abortion.

Seen in this perspective such abortions constitute a violation of women's reproductive rights and bodily integrity. But of course there is also the perspective of the aborted foetus whose destruction is one and the same loss whatever the reason given for the killing of it. In *Hiding from Humanity* Martha Nussbaum does much to bring into view those whom illusory ideals of maturity and perfection would push to the margins of interest. She does not, however, discuss those who may still remain beyond the margin of sight: the unborn. In calling for 'a society that acknowledges its own humanity, and neither hides us from it nor it from us . . . and in which — at least in crafting the institutions that shape our common life together — we admit that we are all children

. . . [and base society] on a recognition of the equal dignity of each individual, and the vulnerabilities inherent in a common humanity'[27] Nussbaum invites her readers, whether or not she intended to, to wonder what in this framework can be the scope for abortion.

Certainly it cannot now be justified by any argument to the effect that on account of being undeveloped and out of sight humanity in the womb is less deserving of regard; or by one that ties human dignity to competent, independent adulthood. Of course in the developed world abortion is now commonly practised in response to ante-natal diagnoses of embryonic abnormality and anticipated handicap, just as euthanasia is argued for by reference to incapacity, loss of autonomy and the approach of death. But the message of Nussbaum's book would seem to be that as they stand these sorts of justifications are unsatisfactory. And if they need to be looked at again then it should be with the same suspicion that Nussbaum brings to bear upon the treatment of other vulnerable groups. The 'indefinable influence of the presence of another human being' of which Simone Weil wrote insightfully and compellingly, acquires a further and very special connotation in the case of pregnancy; and even when born life is diminished by disability, disease or degeneration, there is the sense that so long as it has not been extinguished, the human form is present and exerting its moral influence upon us. The recognition of humanity goes all the way to its points of origin and of cessation.[28]

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NOTES

1 M. Nussbaum, *Hiding From Humanity: Disgust, Shame, and the Law* (Princeton, NJ: Princeton University Press, 2004).
2 A. MacIntyre, *Dependent Rational Animals* (London: Duckworth, 1999).
3 P. Geach, *The Virtues* (Cambridge: Cambridge University Press, 1977), pp. 16–17.
4 R. Hursthouse, 'Virtue theory and abortion', *Philosophy and Public Affairs* 20,3 (1991): 223–246.
5 Hursthouse op. cit., p. 236.
6 Hursthouse op. cit., p. 237.
7 Hursthouse op. cit., p. 242.
8 See J. J. Thompson, 'A defense of abortion', *Philosophy and Public Affairs* 1,1 (1971): 47–66.
9 Aristotle, *Nicomachean Ethics* IV 1124b 15.
10 For Aquinas's account see *Summa Theologiae* IIa, IIae, qq. 30–32. Citing Augustine's City of God Aquinas observes that 'mercy is heartfelt sympathy for another's distress, impelling us to succour him if we can. For mercy takes its name "misericordia" from denoting a man's compassionate heart [*miserum cor*] for another's unhappiness.' *Summa Theologica* literally translated by Fathers of the English Dominican Province (1915) (London: R & T. Washbourne) IIa, IIae, q. 30, a. 1, *responsio*.
11 D. Solomon, 'Internal objections to virtue ethics', *Midwest Studies in Philosophy*, 13 (1988): 5–37; reprinted in D. Statman (ed.) *Virtue Ethics* (Edinburgh: Edinburgh University Press, 1997), p. 172.
12 Nussbaum, 2004, op. cit., p. 311.
13 J. Rawls, *Political Liberalism* (New York: Columbia University Press, 1993), p. 272, fn. 10.
14 Nussbaum, 2004, op. cit., p. 17.
15 MacIntyre op. cit., p. 102.
16 Nussbaum, 2004, op. cit., p. 345.
17 D. Wiggins, *Ethics: Twelve Lectures on the Philosophy of Morality* (Cambridge, MA: Harvard University Press, 2006), Ch. 10.

18 See P. Foot, 'Morality, action and outcome' in Honderich, T. ed., *Morality and Objectivity* (London: Routledge, 1985).

19 Wiggins op. cit., p. 243.

20 The Weil quotation comes from S. Weil, 'The Iliad, or the poem of force', as translated by Mary McCarthy in *Pendle Hill Pamphlet* no 91 (Wallingford, PA: Pendle Hill Press, 1956), p. 7. In the course of it Weil writes in terms well suited to Nussbaum's concerns: 'He who does not realize to what extent shifting fortune and necessity hold in subjection every human spirit, cannot regard as fellow-creatures nor love as he loves himself those whom chance separated from him by an abyss. The variety of constraints pressing upon man give rise to the illusion of several distinct species that cannot communicate'. For elaboration of Weil's manner of connecting moral phenomenology with issues in political philosophy see P. Winch, *Simone Weil: 'The Just Balance'* (Cambridge: Cambridge University Press, 1989).

21 Nussbaum, 2004, op. cit., pp. 305–8.

22 E. Goffman, *Stigma: Notes on the Management of Spoiled Identity* (Englewood Cliffs, NJ: Prentice-Hall, 1963).

23 See, for example, the chapters by various authors in P. Fink and A. Tasmai (eds.), *Stigma and Mental Illness* (Arlington, VA: American Psychiatric Press, 1992).

24 See Fink and Tasmai, op. cit., Ch 1.

25 Nussbaum, 2004, op. cit., p. 305.

26 M. Nussbaum, *Sex and Social Justice* (Oxford: Oxford University Press, 1999) and M. Nussbaum, *Women and Human Development* (Cambridge: Cambridge University Press, 2000).

27 Nussbaum, 2004, op. cit., pp. 17–18.

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