

Chapter 13

Taking Vulnerability Seriously: What Does It Change for Bioethics and Politics?

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Abstract To take into account our vulnerability requires paradoxically our reconfiguring the autonomy of vulnerable and dependent persons such as patients suffering from cognitive and physical impairments. However, vulnerability is not only focused on fragility, it also highlights our responsibility toward the other. Moreover, to assess the primacy of responsibility over liberty means that we depart from any atomistic conception of the self and provide another understanding of subjectivity and sociality. This way of enriching the philosophy of the subject also makes sense when we think of our relations toward animals and our use of nature. It implies that we have to replace the conception of human being that still grounds the philosophy of human rights with another philosophy of the subject. Another way of framing the political question and another contractarianism are at stake in such an inquiry into the critical and political dimension of the notion of vulnerability. We will distinguish this approach which pertains both to ontology and political theory from the standpoint of the ethics of care.

13.1 Introduction

Taking vulnerability seriously means that we give precise content to the notion. This category has been receiving growing attention in ethics and in philosophy in general thanks to the feminists who tried in the early eighties to substitute the independent agent that underlies political liberalism with a more relational conception of identity.¹ They also provided an increasingly refined definition of care considered as a form of practical rationality aiming at answering the specific needs of vulnerable persons. They actually opposed a narrative, individualized and contextualized ethics to the fair allocation of resources we find in the ethics of justice, for which

¹C. Gilligan, *In a Different Voice*, Cambridge, Harvard University Press, 1982.

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impartiality and equality are all important.² The critical function of the category of vulnerability, which denounces the fact that the role care-givers play in our societies is not fairly recognized, and its relevance in applied ethics, especially in the medical field, are not to be denied. However, it does not suppose that the understanding of vulnerability many ethicists often equated with frailty or fragility suffices to grasp the richness of this notion. Nor does it suggest that vulnerability can simply be opposed to autonomy.

To be sure, the idea of an abstract, atomistic and disembodied moral agent whose freedom is seen as the capacity to make choices and to change them and whose consent is the clear expression of his own will no longer makes sense once one takes into account all the constraints that compromise autonomy. The induced preferences due to social stereotypes and domination, but also the physical, psychological and social dependence we all are confronted with at some stages of our existence, especially at the beginning and at the end of life, but also when we have accidents or suffer from diseases, suggest that vulnerability better depicts human beings than the ideal representation of an autonomous agent we find in political liberalism, for instance, in Rawls³ or Mill.⁴ However, to say that autonomy is a matter of degrees and requires some physical, psychological, cognitive and social conditions does not involve the rejection of such a notion.⁵ The point is rather to reconfigure it.⁶

A philosophical inquiry into the notion of vulnerability implies our reassessing its connection with autonomy. The goal is to make the latter compatible with the vulnerable selves we all are and to provide a foundation of political theory that better fits our human condition than the liberal one for which individuals are seen as equal agents whose contribution to society is reciprocal. Such a reconfiguration of the notion of autonomy means that we also underscore the value it conveys, which is the value of the respect for the person's will, even when he or she is suffering from cognitive impairments or is undergoing medical treatments whose side effects jeopardize his or her self-determination. Taking into account our vulnerability leads therefore to thinking through the autonomy of the subject: if we cannot reduce autonomy to self-determination, it is however morally important to grant dependent persons a form of autonomy that goes further than its legal concept. What is the content of this notion of autonomy that is not relative to the cognitive capacities of a person?

Conversely, once we try to understand autonomy in light of situations that compromise it, we are driven to criticize the definition of vulnerability as provided by

²J. Tronto, *Moral Boundaries. A Political Argument for an Ethic of Care*, London, Routledge, 1993.

³J. Rawls, *A Theory of Justice*, Cambridge, The Belknap Press of Harvard University Press, 1971, § 25. See also *Political Liberalism*, New York, Columbia University Press, 1996, p. 505.

⁴J.-S Mill, *On Liberty* (1859), London, Penguin Classics, 2014, chapter 1, Introduction; chapter 3 and 4.

⁵H. Frankfurt, « Freedom of the will and the concept of a person », *Journal of Philosophy*, 68, 1971, pp. 5–20.

⁶C. Pelluchon, *L'autonomie brisée. Bioéthique et philosophie*, Paris, PUF, 2014, pp. 46–52.

the ethics of care. We can no longer consider that vulnerability refers only to frailty or fragility if it is possible to sustain the autonomy of the dependent agent and make him or her flourish. Far from being simply based on the prevention of all the causes that make the person more and more vulnerable, a therapeutic approach aiming at helping him or her exist, and not only survive, supposes also that health care professionals and loved ones do not reduce patients to their impairments and rather pay attention to the way they transcend them. This is all the more important given that most activities that enable a person to feel alive and be happy do not pertain to care, such as creativity, love or play. To simply focus on how frailty and fragility highlight our dependence is to neglect other dimensions of human existence.

Etymologically vulnerability refers to the fact that we can easily be wounded. However, this woundedness is also the opportunity to create new norms when we are experiencing illness or suffering from impairments.⁷ Lastly, it is the condition for our responsibility for the other. As Levinas wrote in *Of God Who Comes to Mind*, only a vulnerable person is able to care for the other.⁸ His concept of openness expresses this double face of vulnerability: fragility makes me dependent on the other's help, but it also enables me to answer his or her call and be responsible for him or her. Vulnerability is frailty and strength as well.⁹

Thus, there are three categories we must analyze if we want to understand what taking vulnerability seriously changes for medical ethics and political philosophy. We will start with the reconfiguration of autonomy in the clinical setting. Highlighting the double dimension of vulnerability, we will then insist upon responsibility. This notion is not only at the core of any ethics that revolve around vulnerability and asymmetry, as seen in the ethics of care, but it also paves the way to an original conception of the subject. The category of passivity we find in Levinas to describe pain characterizes also our responsibility toward the other.¹⁰ This notion of passivity, which is central to a phenomenology that pays attention to phenomena we cannot constitute, will help us distinguish the ethics of care from a philosophy for which responsibility determines the ipseity of the subject. Not only does such primacy of responsibility over liberty change the subject from within, it also has far-reaching implications in the political realm.

We will then draw the political consequences of this philosophy whose point of departure is the corporality of the subject and the materiality of one's existence. Such a starting point modifies the meaning of ethics and justice, since the existence of the other, his or her hunger and thirst – and not his or her freedom – is that which puts me into question. Instead of simply focusing on negative experiences such as

⁷G. Canguilhem, *The normal and the Pathological*, trans. C. R. Fawcett, Cambridge, Zone Books, 1991.

⁸E. Levinas, *Of God who Comes to Mind*, trans. B. Bergo, Redwood City, California, Stanford University Press, 1998.

⁹C. Pelluchon, *Éléments pour une éthique de la vulnérabilité. Les hommes, les animaux, la nature*, Paris, Le Cerf, 2011, pp. 273–284.

¹⁰E. Levinas, *Otherwise than Being. Beyond Essence*, trans. A. Lingis, Pittsburg, Duquesne University Press, 1999, Chapter IV, 4.

pain, death, illness, the taking into account of vulnerability is the first chapter of a phenomenology of corporality. The latter shows that the natural and cultural things I live in and depend upon do not only wound me, but also please me. To be vulnerable is also to be able to experience enjoyment. What does it change for the philosophy of human rights once we take the materiality of our existence seriously and claim that enjoyment, and not only the suppression of pain, is necessary to feel alive, to exist and flourish? Who is the other for whom I should set limits upon my own will and whose existence puts me into question? Do animals count and what about future generations?

13.2 Vulnerability and Autonomy

13.2.1 *Autonomy as a Double Capacity. The Example of Alzheimer's Patients*

In the clinical setting, when persons are confronted with pain, exhaustion, depression, denial, fear or when the medication and treatments have cognitive effects, their ability to make choices is threatened. And yet, it is important to make them take part in the decision-making concerning their treatments. The informed consent remains a guideline in medical ethics. To consider all the constraints that represent obstacles to self-determination does not mean that autonomy no longer makes sense in such a context. However, it is less a starting point than something to restore.¹¹ Because illness is « an ontological assault » that has consequences on the life of the person and may alter his or her identity, the patient's confidence in his or her physician is essential.¹² The patient-physician relationship helps such vulnerable persons understand what is going on and cope with the disease. The quality of the relationship is as important as the technical skills that enable the fight against the disease, since it is impossible for patients to accept a treatment when they do not trust the health care professionals who care for them or when they believe that they are being lied to.

Instead of opposing physician beneficence to patient autonomy, such an inquiry into the clinical setting sheds light on the moral traits that health care professionals have to develop so that their patients make choices in line with their personal values.¹³ This has nothing to do with paternalism. The task of the physician is not to take the decision for the patient as if the latter were not able to know what is better for him or her. However, physician responsibility is to give patients all the information and to verify that they have understood it. To simply provide information without paying attention to the way patients receive it is to abandon them.

¹¹ P. Ricœur, «The Three Levels of Medical Judgment», in *The Just*, Paul Ricœur, trans. D. Pellauer, Chicago, University of Chicago Press, 2003.

¹² E. Pellegrino, «Toward a reconstruction of medical morality: The primacy of the act of profession and the fact of illness», *The Journal of Medicine and Philosophy*, 4, 1979, pp. 44–45.

¹³ Pelluchon, *L'autonomie brisée. Bioéthique et philosophie*, op. cit., pp. 265–272.

Sensitivity to the special needs of the person, the capacity to listen to him or her and to be honest, providing true information in a way he or she can understand it, and the ability to inspire trust are some of the moral traits that are required to care for patients. Such moral traits, including the virtue of benevolence, are the conditions for the respect of patient autonomy. A person suffering from cancer and a dying patient are vulnerable, but they need to be listened to, that is to say that the respect for the other is the respect for his or her autonomy. To interfere with somebody's will as if the latter were too vulnerable to see his or her good is to lack respect for this person.

However, autonomy needs to be reconfigured. This reconfiguration is particularly relevant when we are confronted with individuals suffering with cognitive impairments and dementia, such as Alzheimer's patients. And yet, we contend that even in such extreme cases autonomy does make sense. It is actually necessary to maintain the value conveyed by this notion, which stands for a major principle in medical ethics, even when the person whom we care for is not competent, that is to say that she lacks the cognitive capacities that enable somebody to speak to the others, to make his or her will clearly acknowledgeable or even to set priorities upon his or her desires. Why is the key value of autonomy still relevant in the case of Alzheimer's patients? To answer this question, it suffices to notice the reactions of mute patients suffering from dementia who scream or show aggressiveness when they are forced to do something that does not please them. Sometimes, they also stay prostrated in their bed. On the contrary, when they are invited to do something that corresponds to their will, they express enjoyment and seem to be happy.

Autonomy is to be reconfigured, that is to say that one can no longer see it as the synonym of self-determination. It is actually a double capacity, Jaworska said.¹⁴ First, it is the capacity to have desires and values. Cognitive impairments and dementia do not affect this capacity. Alzheimer's patients still have desires, although they are often contradictory, such as the desire to meet other people and to welcome their grandchildren and yet the desire not to clean themselves. They experience difficulty prioritizing their desires and one of the tasks of health care professionals is to help them set such priorities. For this, the distinction between desire and value can help, since a desire is an impulse, whereas a value is a desire whose fulfillment restores one's self-esteem. It is a desire that also expresses something that makes sense in the person's life.

At the beginning and even during the first 10 years of the disease, the person is able to understand that to undergo experimental therapies is valuable, because it can help future patients.¹⁵ Alzheimer's patients are often seen as individuals suffering from deprivations: they do not speak, do not move, do not know that they are ill, and so on. And yet, the alteration of consciousness is less homogeneous than is commonly said. Alzheimer's patients experience major changes in their identity to the

¹⁴A. Jaworska, «Respecting the Margins of Agency: Alzheimer's Patients and the Capacity to Value», *Philosophy and Public Affairs*, vol. 28, issue 2, 1999, p. 105–138.

¹⁵C. Pelluchon, «Pour une éthique de la vulnérabilité», *Raison publique*, octobre 2009, N°11, p. 165–178.

point that they sometimes do not recognize their loved ones and have forgotten what they have done in their life. But the loss of temporal and spatial landmarks does not mean that they do not feel anything. Such illness puts into question the way we understand personal identity because the alteration of memory implies that the values of the person have changed. Narrative identity is challenged by this disease. However, memory, which is essential to fulfill our promises and is a condition for moral life, does not suffice to define identity, which also refers to the present. This is why we cannot deny that Alzheimer's patients have any identity, which they express in their current life.¹⁶

People with dementia still have autonomy in the first meaning of the word, but they have lost the second capacity entailed by this notion, that is to say the capacity to communicate in a way that make themselves understood. They also lack the ability to know what can correspond to their will. They are unable to find which means can help them fulfill their goals. They are still axiological agents, who have desires and values, but they need a *phronimos* to show them the means and the way to fulfill them. The assistance of another person implies that the latter is able to decipher their will, even when not verbalized, and to offer them activities that correspond to their desires. Empathy, the ability to listen to somebody and to interpret his or her will, and imagination, which helps us find that what can fit the patient, are moral skills that are required to care for a person suffering from Alzheimer's and to show respect for him or her.

In a nutshell, there are two pitfalls in medical ethics and both of them are linked to a narrow conception of autonomy that is equated with self-determination and relative to cognitive capacities, as in the legal definition of personhood. Such a definition leads us to deny autonomy to the individuals suffering from dementia and to interfere with their will. This lack of respect for the vulnerable person is a form of violence and explains why Alzheimer's patients show aggressiveness toward themselves or others when they are not listened to. The other dead-end is to provide to patients all the information concerning their disease and the alternative treatments without verifying that they have understood those explanations and without helping them to make choices in line with their own values. Such a behavior betrays moral indifference and is a way of abandoning a vulnerable person.

13.2.2 Beyond the Ethics of Care: The Capabilities Approach and the Path from Ethics to Justice

Autonomy is a major notion in medical ethics, since the respect for a person goes hand in hand with the respect of his or her autonomy. The point is to reconfigure this notion so that it makes sense in situations of vulnerability. This way of assessing the importance of autonomy distinguishes our approach from the standpoint of the

¹⁶Pelluchon, *L'autonomie brisée*, op. cit., p. 272–275.

ethics of care. This distinction is particularly obvious when one opens a path that travels from ethics to justice. In order to speak of justice and to make vulnerable persons enter politics, instead of considering them as the mere recipients of justice or even as second-class citizens, it is necessary to go beyond the ethics of care for which vulnerability is opposed to autonomy and reduced to fragility. Not only is care a mere stage in a process that aims to help dependent persons to take part in our world, but we also assert that the taking into account of vulnerability in a therapeutic approach and in politics requires our focusing on the strength of the fragile person. This is particularly true with elderly people and with handicapped individuals.

Individuals who are crippled and are suffering from mental impairments are totally dependent on others in their daily life. They need the assistance of somebody to eat, to move, to be tidy, and so on. They cannot survive without this assistance that stresses their heteronomy. Moreover, their self-esteem, which can easily be eroded because of all the invasive treatments they undergo, is determined by the relations they have with the others. Fragility is due to a crippled body or cognitive impairments, but it is also worsened by the fact that they are psychologically and affectively dependent on others. When nobody cares for them, they cannot survive, but care does not suffice, since they need the love of another to feel that they deserve being in the world and living.

Moreover, they too are in search of experiences that nourish them and make them feel alive. And yet, they often are locked up in a narrow environment characterized by constraints and interdictions. To simply care for them without giving them the opportunity to express their uniqueness and flourish is to deprive them from the dimensions that confer value to human existence. This is why all the gestures that nurse them do not suffice. Justice toward them implies that they not be second-class persons living a diminished life, reduced to the conditions of biological survival. To enable them to exist and have a meaningful life supposes that we give them the opportunity to play, to interact with people beyond the circle of caregivers and parents, and to express themselves.

Such remarks highlight the importance but also the limits of the ethics of care.¹⁷ To enable a person who is mentally handicapped to exist, it is necessary to pay attention to the love for life he or she feels and to all the things cognitive impairments did not destroy. Thus we have to take into account his or her strength. The latter is paradoxically at the core of any therapeutic approach that takes vulnerability seriously.¹⁸ The goal of the health care professionals is to help the person live a life that is valuable to him or her, instead of simply insisting upon the dangers that the person is running, to the point that he or she is overprotected and deprived from any sexual enjoyment. This leads to acknowledge the positivity of the handicap.

The limits of the ethics of care are more obvious when one opens a path that travels from ethics to justice and to citizenship. On the contrary, the capabilities approach we find in M. Nussbaum helps us understand how the institutions

¹⁷ Pelluchon, *Eléments pour une éthique de la vulnérabilité*, op. cit., pp. 284–292.

¹⁸ *Ibid.*, pp. 279–284.

welcoming persons suffering from cognitive impairments and elderly people could be organized so that they enable them to flourish.¹⁹ The fact that these persons are often deprived from the opportunity to have recreational activities, to take part in our world, is not merely an ethical issue, but it raises issues of justice as well. To let a person live a diminished life, characterized by the fact that his or her age or his or her handicap prevents him or her from moving, interacting with other persons, playing, having control over his or her environment, is not bad luck, but an injustice. They do not have access to their rights and this means that they are second-class citizens. Not to mention the fact that elderly and crippled people are often seen as mere recipients of justice, to whom the laws are applied, but whose voice is not listened to and who cannot determine the collective rules.

Human rights only express a formal, abstract liberty when one does not pay attention to the conditions that enable a person to use his or her rights. An inquiry into the capabilities that represent what a person can really do *hic et nunc* makes it possible to speak of concrete liberty, as A. Sen said by quoting Marx.²⁰ The equality that is at the core of such a theory of justice that aims at supplementing Rawls's is not an equality of functioning, since it does not make sense to imagine that a crippled person could become a star dancer. However his or her handicap should not prevent him or her from enjoying art nor attending a ballet. The point is therefore to foster the equality of capabilities.

Such an approach forces us to look again at the way we build houses, trains, and so on. Most of the time, crippled persons cannot use them. Applied to elderly people, the capabilities approach invites us to listen to what they could tell us instead of simply answering their materialistic needs, as if they were mere biological organisms or consumers. Taking into account the vulnerability of the person is to be able to listen to what she says, even when she does not speak.²¹ This leads us to introduce the main notion of dignity.

13.2.3 *The Dignity of the Person*

To say that people cannot be reduced to the illnesses they are suffering from means that their dignity is not relative to their conditions of life nor to the judgment of anybody. To be sure, illness, pain, depression and poverty jeopardize self-esteem to the point that we may feel under certain circumstances that we have lost our dignity. However, dignity is not something we can lose. Only the conditions of life, and not the persons themselves, are undignified, and such indignity is an issue of justice, as seen previously. There is no scale that would measure the dignity of a person and make us establish that she is at the bottom when she suffers from cognitive

¹⁹M. Nussbaum, *Frontiers of Justice, Disability, Nationality, Species Membership*, Cambridge, The Belknap Press of Harvard University Press, 2006, pp. 164–173.

²⁰A. Sen, *Commodities and Capabilities*, Oup India, 1999.

²¹Levinas, *Otherwise than Being*, op. cit., chapter V, 3, the saying and the said.

impairments whereas independence and efficiency prove that a person is at the top of the scale. Such cognitive ontology advocates an ethics of autonomy that is actually the mirror of a society that overvalues efficiency and self-control and is afraid of all phenomena that escape our power. Not only does it lead to discriminate vulnerable persons who may internalize this set of values and feel that they do not deserve living when they are old or suffer from impairments, but it also pertains to a narrow conception of the human being, considered as an *animal rationale*.

On the contrary, if we consider that dignity is essentially part of human existence, we think that *each* human, even when he or she can no longer speak or be a deliberative agent, is granted intrinsic value. Such an understanding of the human being requires the rejection of the cognitive ontology mentioned above and its replacement with an ethics of vulnerability that goes hand in hand with a complex and refined conception of autonomy. The latter can no longer be a correlative of the denial of our fragility.²² Moreover, it supposes that we abandon an abstract and narrow conception of the human being and that we also connect the notions of vulnerability and autonomy to the category of responsibility.

Levinas's notion of the transcendence of the other helps sort out this narrow, elitist conception of the subject. Not only does he stress the uniqueness and otherness of the other by speaking of the face, but he also distinguishes the encounter with the other from any other experience, be it a perception or knowledge. The other is not a *noema* nor the object of my representation. I cannot grasp his richness nor constitute him. We are then entering a phenomenology aiming at describing paradoxical phenomena whose meaning overcomes their manifestation, as in Descartes' idea of the Infinite which precedes and exceeds the Finite.²³ To speak of the encounter with the other's face as an *epiphaneia* as Levinas did in *Totality and Infinity* is a way of underscoring the limits of my power to constitute. This signifies that my relationship with the other is essentially ethical. Ethics is the dimension of my relationship with the other, once one has understood that he escapes my power to constitute him, to know him, to reduce him to his physical appearance, to his work and to his possessions. It also suggests that I can be tempted to deny the otherness of the other and even to kill him, because he is who sets limits on my power of power.

What Levinas strongly shows is not only that our relationship with the other who is the one I can care for and the one I can kill is bivalent.²⁴ He also clearly demonstrates that we do not encounter another human being as if the latter were a free moral agent with whom we would fight in order to gain his or her recognition, as in Hegel. The encounter with the other's face is a way of entering another dimension of existence which has nothing to do with the struggle between two free moral agents. Moreover, the existence of the other, his vulnerability, his hunger and his thirst, is that what puts me into question.

²²Pelluchon, *Eléments pour une éthique de la vulnérabilité*, op. cit., pp. 27–47.

²³E. Levinas, *Totality and Infinity. An Essay on Exteriority*, trans. A. Lingis, Pittsburg, Duquesne University Press, 1969. See part III.

²⁴C. Pelluchon, *Tu ne tueras point. Réflexions sur l'actualité de l'interdit du meurtre*, Paris, Le Cerf, 2013, pp. 39–52.

Responsibility, which has nothing to do with the obligations that come from the commitments I have chosen, characterizes the encounter with the other. This means that I am no longer alone and that the origin of morality does not come from social conventions nor from my reason as in Kant.²⁵ The source of ethics is outside the subject, as seen in the subtitle of Levinas' *Totality and Infinity. An Essay on Exteriority*. Such an understanding of ethics as a dimension of my relationship with the other and as something that I did not choose but received from his call explains why Levinas in *Otherwise than Other* describes responsibility as passivity, more passive than any passivity. I did not choose to be responsible for the other who is not necessarily my loved one nor a sympathetic person, but I cannot escape such a responsibility. Moreover, "I" means "here I am", says Levinas. Thus responsibility is that what defines the identity of the subject. The latter can no longer be viewed as a moral agent who has personal life-plans and whose freedom is the capacity to make choices and to change them, but his answer to the call of the other determines his or her ipseity.²⁶

The doctor-patient relationship is one of the best illustrations of such a responsibility toward the other. Ethics requires asymmetry; that is to say that we are not in an exchange as in the social contract which is framed by reciprocity. This does not prevent me from becoming the other who too needs the help of a person. However, when we speak of ethics, we do not refer to the rule of reciprocity nor to the principle of utility. Lastly, the confrontation with vulnerable persons is an opportunity to better understand what I would call the ethical paradox: the dignity of another person is not relative to his or her conditions of life nor does it depend on our judgment, since he or she transcends them and escapes my power to constitute her and any knowledge I may have. Nonetheless, our responsibility is to help him or her restore his or her self-esteem by showing to this person that she still belongs to the community of human beings.

The dignity of the other is not relative to us, but we warrant it. Such duty not to abandon a person is particularly important when that individual is suffering from a lethal disease or is at the end of life, that is to say when he or she is experiencing situations of dependence and vulnerability that can easily erode his or her self-esteem.²⁷ This attention to the vulnerability of the dying person is central in palliative care and in any holistic approach to patients who sometimes ask for assisted suicide because they internalize the judgments of the others who think and tell them that they should die. Far from being the expression of one's will, some demands for assisted suicide are often the mirror of heteronomy.

²⁵E. Kant, *Groundwork of the Metaphysics of Morals*, trans. M. Gregor, J. Timmermann, Cambridge, Cambridge University Press, 2012.

²⁶Levinas, *Otherness Than Being*, op. cit., chapter IV (Substitution).

²⁷C. Pelluchon, « La vulnérabilité en fin de vie », *Jalmaalv*, N° 111, December 2012, pp. 27–46.

13.3 Vulnerability, Responsibility and Political Philosophy

13.3.1 *The Foundations of Politics Upon an Embodied, Relational Subject*

To say that responsibility determines our identity advocates a philosophy of the subject that is quite different from the one we find at the core of political liberalism, for which freedom is all important.²⁸ The subject does not disappear, but he is no longer defined as having the capacity to make choices and to change them. He is actually not seen as an atomistic moral agent for whom the sole limit to his freedom is the respect of the freedom of other moral agents, as in Mill's "No harm Principle". Responsibility modifies from within the conception of the subject and sociality. My «right to be», as Levinas says, is put into question by the existence of the other.²⁹ When applied to human rights, such an interpretation leads to focus less on the rights I am granted than on my responsibility and that of society. Fraternity – and not only freedom and equality – becomes the key principle of such phenomenology of human rights.³⁰ Not only does it suppose a conception of the subject that is not individualistic, it also drives us to say that sociality is not essentially defined by competition, nor by the conciliation of individual interests.

When we draw the political implications of such a conception of the subject, we see that it leads to substitute the social contract that characterizes the political theories from Hobbes to Rawls with another conception of politics. For Rawls, for instance, the goal of the State is to warrant security and to reduce fair inequalities.³¹ Each person is free to pursue happiness as he or she pleases and to change his or her life-plans. A fair society is the one that allows me to believe that I will be given the opportunities to fulfil my aspirations. The sole limit to my freedom is the freedom of the other current persons who have the same rights as me. However, once the subject is constituted by responsibility, the meaning and the goals of the political association change.

Reciprocity and the equality of power between the individuals are not the required conditions for the social contract, since asymmetry and our responsibilities toward dependent persons are also important. To be sure, the political association still aims at defending my rights. Nonetheless, human rights are no longer interpreted as if they were the mere means of my freedom and welfare. The focus, in such a phenomenology of human rights, as Levinas says, is instead on the duties that

²⁸ See footnotes 3 and 4 (I which we refer to Rawls and Mill).

²⁹ Levinas, *Of God who Comes to Mind*, trans. B. Bergo, Stanford University Press, 1998, chapter III. See also "Les Enseignements", *Œuvres 2, Parole et Silence et autres conférences inédites*, Paris, Grasset, 2009, p. 197.

³⁰ E. Levinas, «The Rights of Man and the Rights of the Other», *Outside the Subject*, trans. M. B. Smith, Stanford University Press, 1994, pp. 116–134.

³¹ See the two principles of *A Theory of Justice*, op. cit., § 11–13.

the right of the other person requires from me and from society.³² The idea of sharing resources and space with the others modifies from within the way we understand human rights which are not only understood in light of freedom and equality, but in light of fraternity, as said previously. The materiality of our existence, the fact that we experience hunger, thirst, and need a place to live, are at the core of such a philosophy of the subject that is actually a phenomenology of corporality. Taking into account our vulnerability means that the subject that is at the foundation of the political theory is an embodied subject, whose needs and existence put me into question and lead me to raise the question of my right to be: What place do I leave to the others in my daily life ?

My place in Being, isn't it already usurpation, already violence with respect to the other? Asks Levinas in *Of God who Comes to Mind*.³³ The question of my right to be does not mean that we have to feel guilty, but it shows that the existence of the other is the source of ethics and justice. The latter are not conceived as if they were the conciliation of free agents or the fair allocation of resources. This is why, inspired by Levinas, I say in *Les Nourritures* that ethics is a matter of self-limitation and justice means that I have to share with the others the natural and cultural things I live in and depend upon.

Moreover, ethics and justice do not begin with the encounter of the other's face, since they make sense when I use lands, eat and drink. This assertion suggests that I do not completely follow Levinas, who claims that there is a break between our innocent and egoistic immersion in the sensitive world and ethics, between enjoyment and justice. When we eat, we already say what place we leave to others since our lifestyles and habits have an impact upon the other human beings. We as consumers foster this or that production and this or that kind of agriculture. The growing demand for meat, beyond its ecological implications and its consequences upon animals raised for their flesh, explains in part that the cereals produced in poor countries do not feed local farmers. They are sold to the American and European cattle whereas people living in these countries are starving to death. Hunger and malnutrition are not due to a lack of production, as A. Sen already showed in *Poverty and Famines*, but they are a matter of justice.³⁴ Thus we are never alone even one there is nobody to share our bread. Eating is a saying. It reveals my commitment to the others.³⁵

A philosophical inquiry into the corporality of the subject that takes the materiality of our existence seriously goes hand in hand with the conception of an embodied, relational self. We are no longer separated persons, since our daily life, even when we perform gestures that do not seem to raise ethical issues, has an impact on the other's life. Ethics is no longer a normative field, but it is linked to the limits I

³²C. Pelluchon, *Les Nourritures. Philosophie du corps politique*, Paris, Le Seuil, 2015. See the Introduction.

³³Levinas, *Of God who Comes to Mind*, op. cit., chapter III: "The sense of Being".

³⁴A. Sen, *Poverty and Famines. An Essay on Entitlement and Deprivation*, New York, Oxford University Press, 1981.

³⁵C. Pelluchon, *Les Nourritures. Philosophie du corps politique*, Paris, Le Seuil, 2015, pp. 23–28.

set upon my right to use whatever is good for my own preservation for the sake of the others. Ethics is a matter of self-limitation, but the point is to understand that the existence of the others is part of my existence, although I am not easily prone to acknowledge it.

The presence of the others' lives inside ours is obvious when we pay attention to the fact that we all were born. We were brought to life by other persons and, to a certain extent, we are related thanks to our ancestors to all the persons that came before us. Not only does the event of our birth escape us, since we did not choose to be brought to life, but we also cannot remember it. What we know is due to the others who told us the story of our birth. This is why Ricœur says that we are always older than we are: the choices I make and all the acts that express my will come after this first beginning that is not the result of my will. And at the same time, we are younger than we are, because this first beginning escapes our memory.³⁶ Be that as it may, our birth is not the sign of our dereliction and facticity, but it installs intersubjectivity inside the subject.

Such an embodied, born and hungry self, that is always a relational subject, does live a dual existence.³⁷ His individual death is not the end of the world, as it is in any philosophy for which the atomistic ego is the point of departure and the point of arrival of ethics and politics. Our individual death does not mean that the common world, that is the world that is common to our ancestors, to current people and future generations, ends with us. This common world which welcomes us when we were born, as Arendt writes in *Human Condition*, lasts after our death. It is constituted by all generations, but also by all of our institutions and accomplishments. I would say that it also includes the biosphere and biodiversity. To live is then to live a dual existence that makes sense for us as individuals and as members of this common world that will last after our individual death.

This dual existence is also at the core of the Japanese phenomenology of Watsuji.³⁸ The latter pointed out in *Fûdo* that Heidegger's ontology was characterized by an individualistic interpretation of man or *Mensch*, whereas *ningen* in Japanese means the person and the world, which is natural and cultural as well. Watsuji also demonstrated that Heidegger's ontology was obsessed with death because of the oblivion of this dual existence of human beings.³⁹ On the contrary, Watsuji's phenomenology in *Fûdo* celebrates the love for life and is in tune with the philosophies of Ricœur and Levinas for whom birth and death are not to be interpreted as the proofs of our dereliction.

The foundations of politics upon an embodied, relational subject better depicts human existence than any abstract conception of an atomistic, disembodied self or *Dasein* that "never experiences hunger", as Levinas often says when speaking of

³⁶P. Ricœur, *Freedom and Nature: The Voluntary and the Unvoluntary*, Northwestern University Press, 2006.

³⁷Pelluchon, *Les Nourritures*, op. cit., p. 72–76, 85–92.

³⁸T. Watsuji, *Climate and Culture: A Philosophical Study* trans. from *Fûdo* (風土) by G. Bowtrass Westport, CT, Greenwood Press, 1961.

³⁹M. Heidegger, *Being and Time*, trans. J. Stambaugh, NY, Suny Press, 2010.

Heidegger's ontology in *Being and Time*.⁴⁰ It also leads to an enrichment of political liberalism. The two principles of justice we find in Rawls's *Theory of Justice* are still important. Likely, we may reinforce the distinction between morality and right that is at the core of Mill's liberalism since the «no harm principle» prevents us from forbidding actions or behaviors that do not harm anybody, although they can be considered as indecent. Applied to sexuality and to most uses of one's body, such distinction allows us to preserve individual liberty instead of advocating political paternalism which is also opposed to pluralism and to the respect for the moral equality of the subjects. However, such criteria do not suffice to provide adequate guidance in many fields of applied ethics, especially when our practices have consequences upon the institutions and when they harm future generations, animals and nature. A complete theory of justice has to take into account the fact that the subject of the social contract is linked to other generations although only current persons are members of the political association. Likely, nature enters politics, since it is the condition of our existence.

To further develop the depiction of human condition in light of the corporality of the subject drives to raise two major questions. The first one concerns the other whom I care for and who enters ethics and politics. Once I speak of vulnerability, I have to take into account other sentient beings. Does it imply our reassessing our responsibility toward the other species and toward animals considered as individuals? The second question is linked to enjoyment. The latter is another dimension of our existence and our being in the world that is actually a being with the world and with others.⁴¹ Our sensitive immersion in the world and the corporality of the subject mean that vulnerability is the first chapter of a phenomenology that aims to describe human condition in a less abstract way than Western philosophers have done. What does it change for politics when we speak of enjoyment and elevate aesthetics and the beauty of nature to essential dimensions of human existence?

13.3.2 Who Is the Other I Am Responsible for?

Sentience changes the criteria of ethics since the question, as Bentham said, is no longer: can they think, but can they suffer?⁴² Sentience suffices to grant a being moral consideration. However, sentience is not to be interpreted here as if it were relative to a capacity because it would reinstall a hierarchy between animals who are «like us» and express their pain and the others who are so different from us that we cannot feel empathy, like bugs. Sentience is instead interpreted in light of the category of passivity. Not only do animals share with us this vulnerability, but they also are subjectivities.

⁴⁰ See for instance *Totality and Infinity*, op. cit., chapter II, 2.4.

⁴¹ Pelluchon, *Les Nourritures*, op. cit., p. 37.

⁴² J. Bentham, *The Principles of Morals and Legislation*, London, Athlone Press, 1977, chap. 17, sect. 1, p. 411–412.

Although animals cannot say *cogito ergo sum*, they express their needs, enjoyment, and feelings and have a biography. In a nutshell, they exist. Animals are other existences, as Merleau-Ponty writes, rejecting the way Heidegger draws a line between human beings who have a world and exist (*ek-sist*) and animals who are, according to him, only living (*Nur-lebendende*), because they cannot imagine the world when they are absent.⁴³ To be able to philosophize or be a deliberative agent is not a necessary criteria for being granted moral consideration or even legal status. Other sentient beings enter ethics, that is to say we do no longer advocate for an anthropocentric ethic, but for animals being the object of our responsibility.

There is a call coming from other animals. To answer this call leads us to denounce the abuse of animals raised for food and their transformation into industry-produced «biomachines». Membership in the species *Homo sapiens* and the possession of reason are not sufficient measures of moral worth. The taking into account of sentience and vulnerability implies the rejection of speciesism and the evaluation of the rightness or wrongness of human practices involving animals. Moreover, the notion of vulnerability that insists upon the meaningful experience of the worlds of animals prevents us from advocating any cognitive ontology that would refer to a scale of beings, as in Peter Singer whose animal ethics, in spite of the principle of the equal consideration of interests, is nonetheless based on the standard capacities.⁴⁴

However, this is not the sole reason that explains why the taking into account of vulnerability has far-reaching consequences in ethics, including in animal ethics. As seen above, this category leads us to assess the primacy of responsibility over freedom. The focus is then less on the moral or legal status of the object of my responsibility than on the subject of responsibility; that is to say on us. Such a point of departure that distinguishes our ethics of vulnerability from animal ethics implies a new humanism for which there is a call coming from animals. To speak of an ethics of vulnerability whose major category is that of responsibility requires that we understand that most practices involving animals do raise issues of justice. This way of politicizing the animal question goes further than the issue concerning their rights. The point is to ask what could be an ethics and a politics which would be sensitive to the call of animals, that is to say to the fact that the existence of animals and the way we treat them put us into question and shed light upon the unjust foundations of our justice.⁴⁵

Moreover, once we substitute the abstract, disembodied subject that underlies political liberalism with a conception of an embodied, relational subject whose

⁴³M. Merleau-Ponty, *The Structure of Behavior*, trans. A. L. Fischer, Pittsburg, Duquesne University Press, 1984. M. Heidegger, *The Fundamental Concepts of Metaphysics*, chap. VI, trans. W. H. McNeill & N. Walker, Bloomington, Indiana University Press, 2001.

⁴⁴P. Singer, *Animal Liberation*, New York/London, Harper-Collins (4th edition), 2009. See also C. Pelluchon, « Animal ethics ». In: H. ten Have (ed.), *Encyclopedia of Global Bioethics*, Dordrecht, Springer. Published online 25 January 2015.

⁴⁵Pelluchon, *Eléments pour une éthique de la vulnérabilité. Les hommes, les animaux, la nature*, op. cit., part II.

corporality is assessed, we understand that ethics and politics do not only concern other human beings. This is particularly obvious when we choose to make nourishment the paradigm of such a philosophy. When I am eating, I am always connected to other human beings, since my lifestyles have an impact on them, as seen previously. I am also deeply connected to animals.

When I am eating, I say whether animals have the right to exist and to flourish. Eating meat or fish means that the killing of another sentient being in order to incorporate the flesh of this being is not morally questionable for the eater. Eating animals each day is to foster industrial farms which are necessary to answer the growing demand for meat: I then agree with the fact that animals are forced into a life of torture and deprived from any conditions that could enable them to flourish. Lastly, eating animals even twice per week is to accept the moral frontiers that were built between humans who say to me « Thou shall not kill » and other beings whom I can kill without considering it as murder. On the contrary, to refuse eating meat is to put into question these moral frontiers. Once we think that vulnerability, not reason, suffices to be a self, to exist, and once we open the eyes on the plight of animals worldwide because of some substitutable habits, we do not only feel responsible for these other beings, but we are also deeply wounded by animal exploitation. Such a wound is at the core of my ethics of vulnerability.

13.3.3 Vulnerability and Enjoyment. The Case for a Phenomenology of Nourishment

Vulnerability is the first chapter of a philosophy of corporality aiming at replacing the conception of the subject and human existence that underlies political liberalism with another conception. The latter does not only focus on passivity, but it also insists upon enjoyment. To speak of enjoyment and to highlight the fact that the air, the water, the food, but also natural and cultural achievements do not only correspond to my needs, but please me, is a way of rejecting the dualism nature/culture, mind/body, reason/affects we find at the core of Western rationalism.

The philosophies that revolve around freedom understood as the capacity to make choices and to change them consider human beings as an empire within an empire. Nature is exterior to our existence. It does not enter ethics nor politics, lest the ecological crisis, the depletion of resources threaten our lifestyles or livelihood. On the contrary, when we speak of nourishment to describe the richness of the world we live in and depend upon and to suggest that it is not a noema, an object of our representation, we are prone to consider the way we inhabit the Earth and our relations with the other beings, be they present or future, human or non-human. Ecology is no longer a separate field and becomes the new chapter in a philosophy that refreshes the meaning of human existence. To exist is no longer to go out of the world and express one's freedom. It is not essentially understood in light of our projects, but receptivity is that which better depicts existence. Instead of speaking

of our being *in* the world, we will speak of our being *with* the world that is together a being with the others.

The political implications of such a point of departure that makes vulnerability and enjoyment the major categories of a phenomenology of corporality are far-reaching.⁴⁶ The conciliation between individuals, that is, security, and the reduction of unfair inequalities, are no longer the sole goals of the State. The protection of the biosphere and biodiversity, the preservation of the common world that includes both natural and cultural things and refers to all generations, the aesthetical dimension of our being with the world, the fact that we want to live and to flourish and that beauty is part of human existence, but also the alleviation of animal suffering become new duties of the State.

Therefore, our politics becomes a cosmopolitics and a zoopolitics. This does not signify that animals vote or become the members of the social contract, but their interests are part of the definition of the common good. Instead of imposing from the outside some ecological norms or simply denouncing animal exploitation, this phenomenology of nourishment means that animal condition, ecology and the preservation of a welcoming world are to be taken into account in any policy concerning agriculture, education, urbanization, and so on, because they belong to our lives. These new political duties that change from within the social contract are derived from the depiction of human existence considered in its materiality. They are drawn from a phenomenology of corporality that takes into account vulnerability and enjoyment.

This phenomenology and its underlying ontology play for the new social contract the part that was played by the state of nature in the political theories of Hobbes, Locke, Rousseau. Politics is not based on moral views, since the phenomenological approach has nothing to do with values. The latter are only subjective, whereas the philosophical description of our existence in its materiality, starting with eating and being born, is not relative to our personal view. Thanks to its method, the phenomenological inquiry into human existence provides some guidelines that have a universal dimension and aim at refreshing the meaning of ethics, justice, and human condition. This is why the conception of an embodied, relational self it conveys can also be used as a new foundation for politics, although this path that travels from ontology to politics also refers to hermeneutics as a mediation, that is to say that each society has to interpret these principles and apply them according to its history and customs.

13.4 Concluding Considerations

When reconfigured in light of the other categories that are central to a complete philosophy of corporality, such as autonomy, responsibility and enjoyment, vulnerability has a positive function, and not a mere critical one. It actually enables us to

⁴⁶Pelluchon, *Les Nourritures*, op. cit., pp. 205–8, 260–267.

sort out of a narrow conception of autonomy that does not make sense in the clinical setting where there are many obstacles that compromise the patient's self-determination. Moreover, it goes hand in hand with a therapeutic approach that does insist upon all the things that cognitive impairments did not destroy. Vulnerability does not only refer to the person's frailty. It also means that individuals experiencing dependence, such as handicapped persons or elderly people, need not only to be cared for. They too are in search of experiences and sensations that make them feel alive, instead of being considered as second-class persons whose existence is reduced to its biological conditions.

Far from simply equating vulnerability with fragility, a phenomenological inquiry into the notion of vulnerability interprets it in light of the category of passivity, which focuses on phenomena that escape our will. Corporality, not consciousness, is the point of departure of our experience of ourselves and of the world. To be sure, this insistence upon the biological and social conditions of our existence implies that we take into account the phenomena that show the alteration of our body and our powerlessness. However, passivity, which better depicts human condition than the ideal representation of a self-sufficient individual we find at the core of political liberalism, does not imply that our life is characterized by dereliction as in Heidegger. Vulnerability is connected to responsibility, which is the other way of interpreting our openness to the other, that is to say our need of the other's help but also the fact that we are concerned by the other's fate.

The articulation between the notions of autonomy, vulnerability and responsibility advocate a philosophy of the subject that is quite different from the one we find in most modern and contemporary Western philosophies, for which the individual is seen as a free moral agent, whose limits are set by the freedom of other current free moral agents. To take vulnerability seriously means that we take into account the materiality of our existence. Passivity, but also enjoyment, characterize our existence, which is always linked to many things we live in and depend upon. The latter, which we call Nourishment, are not only resources, but they suggest that water, air, trees are not just instrumental. We need them, but they also please us and nourish our lives, giving them a taste and a meaning. Moreover, we are never alone, but our existence is intertwined with the existence of other beings, be they our ancestors, people living in our country or far from our country or future generations. Our daily life has an impact on the others, as seen while eating. We say the place we set to other beings, including other animals, when we buy this or that kind of food and foster this or that production.

In a nutshell, this philosophy of corporality paves the way for a philosophy of the subject that is less abstract and less individualistic than in the Western tradition and for a reconstruction of ethics and politics that could help us face the ecological crisis which is not to be reduced to a crisis of resources, but concerns our inhabiting the Earth and our way of interacting with the other beings. Wisdom and hope start with a new assessment of the point of departure of any experience of ourselves and the world, that is to say with the body, whose vulnerability and dependence toward the other and toward the conditions of existence are clearly acknowledged.

References

1. Bentham, J., *The Principles of Morals and Legislation* (London: Athlone Press, 1977).
2. Canguilhem, G., *The normal and the Pathological* (trans. by C.R. Fawcett) (Cambridge: Zone Books, 1991).
3. Frankfurt, H., "Freedom of the will and the concept of a person", *Journal of Philosophy*, 1971, 68: 5–20.
4. Gilligan, C., *In a Different Voice* (Cambridge: Harvard University Press, 1982).
5. Heidegger, M., *The Fundamental Concepts of Metaphysics* (trans. by W.H. McNeill & N. Walker) (Bloomington: Indiana University Press, 2001).
6. Heidegger, M., *Being and Time* (trans: Stambaugh, J.) (New York: Suny Press, 2010).
7. Jaworska, A., "Respecting the Margins of Agency: Alzheimer's Patients and the Capacity to Value", *Philosophy and Public Affairs*, 1999, vol. 28, issue 2: 105–138.
8. Kant, E., *Groundwork of the Metaphysics of Morals* (trans. by Gregor, M. & Timmermann, J.) (Cambridge: Cambridge University Press, 2012).
9. Levinas, E., *Totality and Infinity. An Essay on Exteriority* (trans. by A. Lingis) (Pittsburg: Duquesne University Press, 1969).
10. Levinas, E., "The Rights of Man and the Rights of the Other", *Outside the Subject* (trans: Smith, M. B.) (California: Stanford University Press, 1994).
11. Levinas, E., *Of God who Comes to Mind* (trans. by B. Bergo) (Redwood City, California: Stanford University Press, 1998).
12. Levinas, E., *Otherwise than Being. Beyond Essence* (trans: Lingis, A.) (Pittsburg: Duquesne University Press, 1999).
13. Levinas, E., "Les Enseignements", *Œuvres 2, Parole et Silence et autres conférences inédites* (Paris: Grasset, 2009), pp. 173–198.
14. Merleau-Ponty, M., *The Structure of Behavior* (trans: Fischer; A. L.) (Pittsburg: Duquesne University Press, 1984).
15. Mill, J.-S., *On Liberty* (1859) (London: Penguin Classics, 2014).
16. Nussbaum, M., *Frontiers of Justice, Disability, Nationality, Species Membership* (Cambridge: The Belknap Press of Harvard University Press, 2006).
17. Pellegrino, E., "Toward a reconstruction of medical morality: The primacy of the act of profession and the fact of illness", *The Journal of Medicine and Philosophy*, 1979, 4: 32–56.
18. Pelluchon, C., "Pour une éthique de la vulnérabilité", *Raison publique*, 2009, N° 11: 165–178.
19. Pelluchon, C., *Éléments pour une éthique de la vulnérabilité. Les hommes, les animaux, la nature* (Paris: Le Cerf, 2011).
20. Pelluchon, C., "La vulnérabilité en fin de vie", *Jalmalv*, 2012, N° 111: 27–46.
21. Pelluchon, C., *Tu ne tueras point. Réflexions sur l'actualité de l'interdit du meurtre* (Paris: Le Cerf, 2013).
22. Pelluchon, C., *L'autonomie brisée. Bioéthique et philosophie* (Paris : PUF, 2014, 2nd edition).
23. Pelluchon, C., *Les Nourritures. Philosophie du corps politique* (Paris: Le Seuil, 2015).
24. Pelluchon, C., "Animal ethics", in H. ten Have (Ed.), *Encyclopedia of Global Bioethics*, Dordrecht, Springer (forthcoming, 2015)
25. Rawls, J., *A Theory of Justice* (Cambridge: The Belknap Press of Harvard University Press, 1971).
26. Rawls, J., *Political Liberalism* (New York: Columbia University Press, 1996).
27. Ricœur, P., "The Three Levels of Medical Judgment", *The Just*, Paul Ricœur (trans: Pellauer, D.) (Chicago: University of Chicago Press, 2003).
28. Ricœur, P., *Freedom and Nature: The Voluntary and the Unvoluntary* (Northwestern University Press, 2006)
29. Sen A., *Poverty and Famines. An Essay on Entitlement and Deprivation* (New York: Oxford University Press, 1981).
30. Sen A., *Commodities and Capabilities* (Oup India, 1999).
31. Singer, P., *Animal Liberation* (New York/London, Harper-Collins, 2009 4th edition).

32. Tronto, J., *Moral Boundaries. A Political Argument for an Ethic of Care* (London: Routledge, 1993).
33. Watsuji, T., *Climate and Culture: A Philosophical Study* (trans. by Bowntras, G.) (Westport, CT: Greenwood Press, 1961).