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DOSSIER

ON VULNERABILITY—ANALYSIS AND APPLICATIONS OF A MANY-FACETED CONCEPT

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INTRODUCTION

The concept of vulnerability has received some attention in philosophical thinking for a while (see, amongst others, Lévinas 1968; Habermas 1981 and 1991; Jonas 1984; Ricœur 2001), but it was only more recently that philosophers and bioethicists started to systematically investigate (and sometimes criticize) its meaning and ethical applicability (see, for example, Goodin 1986; Rendtorff & Kemp 2000; Levine et al. 2004; Hurst 2008; Schroeder & Gefenas 2009; Luna 2009; Mackenzie, Rogers, and Dodds 2013; Straehle 2016). Despite the many academic contributions on vulnerability over the last two decades, the concept remains underdeveloped and many ethical issues related to it are still unresolved. One of the biggest challenges is probably to determine the scope of vulnerability. On the one hand, vulnerability is often regarded as a shared property of all human beings: we have fragile bodies and we are mortal, fallible, and susceptible to harm and suffering (see, amongst others, Callahan 2000; Thomasma 2000; Rendtorff 2002; Kottow 2003; Fineman 2008; Butler 2009 and 2012). This understanding of vulnerability as a human condition is mostly (with a few exceptions) regarded as descriptive, and its link to other concepts such as dependency, care, sentience, and frailty so far remains open.

On the other hand, one can find more normative accounts of vulnerability in the literature: many medical codes of research and health-care ethics require special protection for and attention to those vulnerable in these settings—a view that presupposes that some individuals and groups are more vulnerable than others (see, for example, Belmont Report 1979; ICH Good Clinical Practice 1996; Declaration of Helsinki 2013; CIOMS 2016). The groups designated as *particularly* vulnerable in this sense depend on the ethical code and guideline in ques-

tion and may include pregnant women, prisoners, the elderly, the disabled, children, refugees, etc. This approach, which ascribes vulnerability to some only, was criticized for stigmatizing and labelling the individuals who fall into these categories (Luna 2009; Brown 2011).

For this reason, some accounts of vulnerability do not focus exclusively on group membership, but rather single out the property that the individuals in these groups allegedly share. According to these views, we should regard as vulnerable those who are more likely to be exploited, who are unable to protect or safeguard their own interests, who lack basic rights, who are susceptible to additional harm, or who are at risk of having unequal opportunity to achieve the maximum possible health and quality of life (Zion et al. 2000; Danis & Patrick 2002; Kottow 2003; Macklin 2003; Nickel 2006). The group identified as vulnerable in a given situation can thus substantially vary according to the definition used, and some vulnerable groups may be overlooked when the focus is on only a single aspect of vulnerability. This shows that it is still far from clear who actually is vulnerable in certain contexts and who, as a consequence, should receive special protection and additional attention.

Only a few accounts have attempted to resolve this apparent conflict in the literature between the different understandings of vulnerability. Rogers, Mackenzie, and Dodds (2012), for example, present a taxonomy of vulnerabilities by distinguishing inherent, situational, and pathogenic vulnerability: while all humans share the same inherent vulnerability, there can be certain situations where some individuals are more vulnerable than others. Furthermore, some responses to existing vulnerabilities may exacerbate them or generate new ones. Luna (2009, 2018) argued that we should not use vulnerability as a label for certain groups; rather, we should accept a layered account of vulnerability. According to her view, vulnerability is determined by the relationship of the person in question to a certain context: individuals can have one or several (sometimes overlapping) layers of vulnerability that arise in certain situations. Martin, Tavaglione, and Hurst (2014) attempted to resolve the conflict in the literature by arguing that there is only one type of vulnerability: it is an intrinsic property of those having interests, but some individuals are more likely to unjustifiably manifest their vulnerability. Therefore, they can be regarded as particularly vulnerable in certain settings and should be afforded special protection and additional attention. Like Luna's approach, this model also allows vulnerabilities to be combined and aggregated (Tavaglione et al., 2015).

So far, however, no agreement has been reached in the bioethical literature on an understanding of vulnerability that does not encounter any problems. The exact definition, the scope, and the normativity of the concept of vulnerability remain unclear. Despite its frequent use in medical guidelines and the philosophical and bioethical literature, it is still an open question what vulnerability actually is and to whom it can meaningfully be ascribed, how it relates to other ethical concepts, and whether the concept has normative implications. All these open questions motivated us to organize this special issue on vulnerability of

Les Ateliers de l'Éthique / The Ethics Forum, and thereby to contribute some clarifications about the nature of vulnerability to the growing body of literature on this topic.

The first article, by Janet Delgado Rodriguez, goes right to the heart of the debate and addresses the problem of the scope and proper definition of vulnerability. In her text, the author traces the development and different definitions of vulnerability in the domain of bioethics. She argues in favour of the view that vulnerability currently is, but also *must b*e, a key concept for contemporary bioethics. She points out that the current debates in bioethics have foremost focused on vulnerable groups in certain domains, such as in medical research and health care. That is, vulnerability is foremost regarded as a contingent or situational property. But she also insists that the view of vulnerability as a human condition—that is, ontological or universal vulnerability—and its normative implications should not be left out of well-developed vulnerability accounts in bioethics. To flesh out this type of vulnerability and to illuminate its relationship to situational vulnerability, Delgado Rodriguez analyzes the theory of vulnerability presented by Martha Fineman (2010; 2012), which helps her to develop an *ethics of vulnerability*: Delgado Rodriguez shows that we should reject the idea of vulnerable groups, as this could be stigmatizing and thus potentially harmful. Furthermore, she claims that contemporary bioethics should focus not on the autonomous subject but rather on the vulnerable subject. Finally, she points out that focusing on the shared vulnerability of all human beings forces us to consider our dependencies and relationships with each other, and helps us to address institutional and governmental inequalities. Thus, Delgado Rodriguez shows in her article that a view of vulnerability as a human condition has normative force and may urge us to take action.

The second, rather conceptual, contribution also addresses the conflict in the literature regarding the scope of vulnerability. In his article "An Extrinsic Dispositional Account of Vulnerability," Frédérick Armstrong raises the question of what *kind* of property vulnerability is. He scrutinizes how the very same concept can refer to an ontological fact of an entity *and* to contingent circumstances and critically examines two solutions to this puzzle presented in the literature. The first one is the taxonomy of vulnerability presented by Rogers, Mackenzie, and Dodds (2012). Armstrong criticizes their account on the basis that it is not clear whether their three kinds of vulnerability actually refer to the very same concept, and he rejects their solution to the conflict. The second view he discusses is that of Martin, Tavaglione, and Hurst (2014). Armstrong contends that while their account is promising and broadly correct, the authors commit an error insofar as they regard vulnerability as *intrinsic* dispositional property: following McKitrick (2003), vulnerability should be defined as an *extrinsic* dispositional property—the extrinsic disposition to be damaged or harmed. Therefore, vulnerability is solely circumstantial and not an ontological feature of entities such as groups, institutions, and the ecosystem. According to Armstrong, this view can capture without problems the normative force that philosophers wish to ascribe to ontological understandings of vulnerability, while avoiding the problem of potential

stigmatization of vulnerable groups, since their vulnerability is not regarded as an essential feature of themselves anymore.

The third article in this special issue illuminates vulnerability's link to other important bioethical concepts. In "Bientraitance et prise en compte de la vulnérabilité," Annie Hourcade investigates the relationship between vulnerability and "well-treatment" (bientraitance). She argues that "bientraitance" is the adequate response to another individual's vulnerability, and distinguishes it from other related concepts, such as beneficence: while non-maleficence and beneficence are the aim of an action, well-treatment (as well as ill-treatment) is the way or means by which this goal is reached. Well-treatment is an action and situates itself in the relationship between individuals. Hourcade furthermore contends that "treating" ("traiter" in French) someone well or badly always involves a dissymmetry, since, in so doing, a person is reacting to another individual's vulnerability and thus potentially has some power or domination over the other. Vulnerability therefore is a relational property, not an intrinsic one. With our actions, we can increase the vulnerability of other persons and harm them (which corresponds to ill-treatment), but we can also diminish the vulnerability of others and thus their risk of being harmed if we treat them well. Well-treatment is, according to Hourcade, the adequate response to the vulnerability of others and thus a virtue that we should practice.

The last two contributions in this special issue are more applied, in that they discuss features of different vulnerable groups in order to clarify the notion of vulnerability. In "Opioid-Dependent Mothers in Medical Decision Making about the Treatment of Their Infants: Who Is Vulnerable and Why?," Susanne Uusitalo and Anna Axelin argue that not only newborns should be considered as particularly vulnerable in situations of medical management of neonatal abstinence syndrome; the mothers' situational vulnerability *also* has to be taken into account by medical professionals. They may, for example, be vulnerable because they are not consulted in the decision-making process by medical professionals, or they may be victims of discrimination, stigmatization, and prejudices because of their former or current addiction. But the authors go even a step further: they show that the example of opioid-dependent mothers illustrates that in some cases, accounts of vulnerability that are based solely on individuals or certain groups are insufficient. Uusitalo and Axelin argue that the mother and child have to be regarded in this case as a dyad and that their special relationship adds an additional layer of vulnerability. This is the case not only in the sense that children partake of their parents' vulnerability when it diminishes the protection they obtain (Hurst, 2015), but also in the sense that dyads such as a mother and child may in themselves be susceptible to harm and moral wrongs. Vulnerability is thus not necessarily a property of individuals but may also be interpersonal, a property of relationships or—here—dyads. Overlooking this may result in harm or moral wrong for both individuals who are part of this dyad. On the other hand, taking into consideration this dyad may be beneficial for the well-being of both the mother and child.

Finally, Gottfried Schweiger and Gunter Graf show in their contribution that the current literature has so far overlooked some important dimensions of children's vulnerability. The authors argue that children's vulnerability is not a homogeneous but rather a dynamic feature that undergoes changes throughout their childhood. That is, children's vulnerability varies depending on the developmental state as well as on contextual specificities, such as gender, race, and the economic situation of the children. The authors thereby distinguish the physical, mental, social, and symbolic dimensions of children's vulnerability, which also vary throughout the child's development. Schweiger and Graf furthermore show how children's vulnerability relates to their moral claims: children have a moral claim for protection and a moral claim not to be harmed by having their vulnerabilities exploited. Since some threats to children's well-being diminish and new ones arise and increase over time, the moral claims of children also change in children's lives. In a last step, the authors investigate the link between children's vulnerability and their autonomy. They argue that children have a moral claim to act on their autonomy in line with their level of development and maturity. However, this moral claim is restricted insofar as the children should be protected from jeopardizing their present and future well-being and autonomy. Acting on their autonomy thus sometimes can enhance children's vulnerability, while in other situations it may diminish it. As the authors outline, balanced solutions can thus become difficult in practice.

The aim of this special issue was to help clarify the notion of vulnerability, its scope, and its normativity, as well as to explore how it can be applied. The five articles in this special issue contribute to a better understanding of vulnerability, by showing *why* it is an important concept in contemporary bioethics, by fleshing out *what kind* of concept it exactly is and how it relates to other important concepts such as well-treatment, autonomy, fragility, and beneficence, and by showing in what domains vulnerability discourse can, in fact, improve the situation of those vulnerable.

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