

ISSN: 0211-4526

PERSONA Y DERECHO

REVISTA DE
FUNDAMENTACIÓN
DE LAS INSTITUCIONES
JURÍDICAS
Y DE DERECHOS
HUMANOS

NÚMERO 89
2023 / 2

CUIDADO,
VULNERABILIDAD
Y DERECHO

REVISTA SEMESTRAL DE LA FACULTAD DE DERECHO /
SERVICIO DE PUBLICACIONES DE LA UNIVERSIDAD
DE NAVARRA / PAMPLONA / ESPAÑA



Universidad
de Navarra

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REVISTA SEMESTRAL DE LA FACULTAD DE DERECHO
ÁREA DE FILOSOFÍA DEL DERECHO - INSTITUTO DE DERECHOS HUMANOS
FUNDADA EN 1974 / UNIVERSIDAD DE NAVARRA
PAMPLONA, ESPAÑA / ISSN: 0211-4526
2023/2 / NÚMERO 89 (JULIO-DICIEMBRE)

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Precios 2023:
Suscripción anual:
- Impreso+electrónico (España)
Individual 65€ / Institucional 90€
- Impreso+electrónico (Internacional)
Individual 75€ / Institucional 105€
- Electrónico
Individual 50€ / Institucional 70€
Membros Alumni y librerías 20% de descuento

Fotocomposición: Pretexito
Impresión: Ulzama Digital
Tamaño: 170 x 240 mm
Fecha impresión: 23 de noviembre de 2023
DL: NA 685-1975; **SP ISSN:** 0211-4526

Las opiniones expresadas en los trabajos publicados en esta revista son de la exclusiva responsabilidad de sus autores

PERSONA Y DERECHO

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2023** / NÚMERO 89 (JULIO-DICIEMBRE)

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MONOGRÁFICO

**CUIDADO,
VULNERABILIDAD
Y DERECHO**

The Moral Discourse in the Contemporary World Starting from the Ontological Vulnerability of the Creature

*El discurso moral en el mundo contemporáneo a partir
de la vulnerabilidad ontológica de la criatura*

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RECIBIDO: 09/12/2022 / ACEPTADO: 31/10/2023

Abstract: The vulnerability, as an onto-anthropological condition of the human, in the posture of fragility and limitation tends man towards the things of the world. It is, therefore, an ontological condition of finitude and fragility, but it is also an ethical posture. The intention is to outline the ambivalence of vulnerability: a permanent and inevitable contingent condition, that exposes man to fortune (*tyche*) and at the same time projects him into the horizons of value. Through Martha Nussbaum's reading of Aristotle's thought, we intend to reflect on the *nous* of the concept of vulnerability, as ontological *prius* of every universal principle.

Keywords: vulnerability; Nussbaum; Ethic.

Resumen: La vulnerabilidad, como condición onto-antropológica de lo humano, en la postura de fragilidad y limitación tiende al hombre hacia las cosas del mundo. Es, por tanto, una condición ontológica de finitud y fragilidad, pero también es una postura ética. La intención es esbozar la ambivalencia de la vulnerabilidad: una condición contingente permanente e inevitable, que expone al hombre a la suerte (*tyche*) y al mismo tiempo lo proyecta hacia los horizontes del valor. A través de la lectura que hace Martha Nussbaum del pensamiento de Aristóteles, pretendemos reflexionar sobre el *nous* del concepto de vulnerabilidad, como *prius* ontológico de todo principio universal.

Palabras clave: vulnerabilidad; Nussbaum; ética.

The body is a big sagacity, a plurality with one sense, a war and a peace, a flock and a shepherd. An instrument of thy body is also thy little sagacity, my brother, which thou callest «spirit» –a little instrument and plaything of thy big sagacity. «Ego,» sayest thou, and art proud of that word. But the greater thing—in which thou art unwilling to believe— is thy body with its big sagacity; it saith not «ego,» but doeth it.

(F. Nietzsche, *Thus Spoke Zarathustra*, 1978)

The question we want to ask ourselves is whether vulnerability, human's finiteness and fragility, by exposing him to events beyond his control (*tyche*), can influence his happiness in a positive or negative sense, a term that we reserve to define conceptually on the next pages. The interpretation chosen retraces the interpretation of Hellenistic thought, in particular Stoic and Aristotelian, by Martha Nussbaum.

I. GOOD HUMAN LIFE AND HUMAN FLOURISHING

The insistent return to the concept of vulnerability in the modern world, as the foundation of contemporary ethics, the ontological *prius* of other ethical principles, implicitly denounces the crisis of ethical and deontological perspectives and the rethematization of the Aristotelian ethical-anthropological conception of *eudaimonia*, once again weaving the relationships of a humanity jagged in individualisms and particularisms.

Martha Nussbaum's proposal moves in this direction. Her social democratic political proposal is rooted in a reflection on the complete realization of the human being¹. The use of the expression *human flourishing* testifies to a change of course, with respect to a certain tradition which translates Aristotelian *eudaimonia* with the term happiness, understood as the maximization of pleasure or utility, thus not crossing the perimeter of the subject that of this pleasure or utility enjoys.

The *eudaimonia* in Aristotle is more than a state of passive contemplation and expresses what the subject considers a good life for himself, in the set of relationships he establishes with the things and people to whom he attributes value and importance and worth striving for. Although this is a judgment relating to one's perception of the world and therefore permeated with historicity, it escapes the risk of degenerating into relativism because the subjective perspective is combined with the universal projection of the realization of one's humanity².

¹ NUSSBAUM, M., «Aristotelian Social Democracy», in *Liberalism and the Good*, B. Douglass, G. M. Mara, H. S. Richardson (eds.), Routledge, New York, 1990, pp. 230-252.

² NUSSBAUM, M., «Non-Relative Virtues: An Aristotelian Approach», in *The Quality of life*, M. Nussbaum, A. Sen (eds.), Clarendon, Oxford, 1990, pp. 242-269; «Aristotle on Human Nature and the Foundations of Ethics», in *Word, Mind, and ethics: Essays on the Philosophy of Bernard Williams*, J. Altham, R. Harrison (eds.), Cambridge University press, Cambridge, 1995, pp. 86-131.

The *eudaimonia* in its classical root «implies a rich and equally complex semantics by imposing a turning point on the Aristotelian unknown which in the end reveals itself as an anthropological scenario in which the intelligible instances and coordinates of the human in his action are unfolding»³. It is a ‘theoretic of the human good’ which is the key to human wholeness).

By retracing Aristotle’s reasoning in some passages of Eudemian Ethics, Martha Nussbaum repropose the age-old querelle whether happiness in life is among those things that depend on chance or nature or on human choices: if it depends on chance or nature, it is removed from the hope of the most, since it does not depend on men to obtain it; if instead it consist in being of a certain sort oneself and in his actions, the good will be both more common and more divine» (EE 1215 a13-19). However, the fact that it depends on the effort and commitment of men does not mean that it is not exposed to the elements of fate, nor that the state of virtue is sufficient for it. The *eudaimonia* is a dynamic concept, a tension, not a stable condition. Therefore, «a life that containing only (the state of) virtue, but no action from it out in the world (where the agent’s efforts encounter the buffetings of chance), will not be judged by a reasonable person to be complete and lacking in nothing»⁴.

II. VULNERABILITY: EXPOSURE TO FATE

Is the *eudaimonia*, Aristotelian happiness, which, as we have aforesaid, M. Nussbaum translates as human flourishing in order not to betray the dynamism proper to the Greek term, which the literal translation (happiness) would flatten to a condition of inaction, endangered by events and relationships outside of man?

Martha Nussbaum matures an initial reflection on these issues as part of a broader reflection on the role that philosophy plays in antiquity and above all in the contemporary world in *The Therapy of Desire*. The incessant dialogue with the authors of the past constructs the geometries of a community in which man can flourish. Could the remedy be that offered by Epicureanism and Stoicism: free oneself from upheavals and disturbances, reducing the involvement with the unstable, unpredictable and uncontrollable elements of

³ MARAGLINO, G., «Eudaimonia», *Revista Portuguesa de Filosofia*, 77, 2021, p. 97.

⁴ NUSSBAUM, M., *The Therapy of Desire*, Princeton University Press, Princeton, 1994, p. 63.

reality on the part of the one who acts? Martha Nussbaum together with Aristotle rejects the ataraxic or apathetic solution.

It cannot be denied that the good life is vulnerable to fate, even when this is not catastrophic, as in the case of Priam. The excellent activity of the virtuous man can be hindered or even obstructed in various ways: through lack of resources or instrumental means (wealth, political power), through loss of the object or recipient of the activity itself (death of a friend).

Eudaimonia is necessarily fragile, «evaluative choices that enhance the quality and completeness of a human life –the choice to value activities rather than just intellectual keenness– open the agent to certain risks of disaster», to the point that «the conditions of risk appear to be accidentally, rather than essentially, connected to the structure of virtue itself, however permanent and unavoidable these contingent conditions are»⁵.

It would seem that Aristotle cannot exclude that misfortune can make the good person waver from perfect *eudaimonia*, although he is convinced that the truly good and wise man can never fall. Uncontrolled circumstances can interfere with virtuous activity in four ways: by depriving it of some resources or instrumental means (if absolutely necessary, their absence stops the activity, if not absolutely necessary, it forces or hinders the activity); removing the real object or recipient of the activity (if the loss is permanent and complete, blocking it completely, if it is temporary and/or partial, hindering it). The question arises above all with regard to the extreme cases of deprivation of means/resources and the loss of the object. Aristotle would seem to be unable to rule out the possibility that fortune (*tyche*) can make the good person waver from perfect *eudaimonia*, although he is convinced that the truly good and wise man can never fall «to the very bottom of the scale of ethical assessment»⁶. In other words, observes Martha Nussbaum, «an Aristotelian conception of *eudaimonia*, which bases excellent activity on stable goodness of character, makes the good life tolerably stable in the face of the world. But this stability is not limitless»⁷, emphasizing the difference between being good and living well. In the ridge of these two concepts, events can creep in (complete halt, hindrance of the action due to the lack of instrumental goods;

⁵ NUSSBAUM, M., *The Fragility of Goodness. Luck and ethics in Greek tragedy and philosophy*, Cambridge, Cambridge University Press, 1986, pp. 340-41.

⁶ *Ibid.*, p. 334.

⁷ *Ibidem*.

blockage or obstruction due to the absence of the object to which the activity is directed) that «impeding the good state of character from finding its proper fulfillment in action»⁸.

There are numerous declinations of the concept of being good as well as of acting well, declinations that are understood in the sphere of practical action and not in the bed of theorization, although it is precisely these declinations, the object of our experience, that connote the understanding of these concepts. to be good, to live well, to do well refer to the complexity of human experience: character, principles, situation.

From Aristotelian reflections on the relationship between character and the ages of life in the Rhetoric (II, 12-14), Nussbaum deduces that «the virtues require a stance of openness towards the world and its possibilities (refers to the young man's characteristic opening position) [...] This openness is both itself vulnerable and a source of vulnerability for the person's *eudaimonia*»⁹.

Aristotle compares the distrustful character of the elderly person and that of the confident young person: experiences put at risk those virtues of openness towards the other. However, exposure to risk, as openness to the other, seems to be part of the very dynamic of virtue. If the good condition finds its completion in the activity, vulnerability can only be a permanent and inevitable condition even if in its contingency, as the activity itself brings men closer to the world. To avoid the risk, I would have to give up the exercise of the virtues, in particular the ethical virtues according to the Aristotelian classification. I should generally give up those assets to which I value, which are not in the agent's control. This solution would contradict the human good that *eudaimonia* seeks.

If luck tends to help in the exercise of virtuous action¹⁰ just as misfortune risks compromising it? What value then does the choice, so important in Aristotelian and Nussbaum's thought, assume?

The good person's vulnerability is not unlimited. It is the practical wisdom that shows man the way to act well in unfavourable circumstances. It is no coincidence that Martha Nussbaum in her well-known approach to capabilities assigns a *structural role* to the central capacity of «practical reason»¹¹,

⁸ *Ibidem*.

⁹ *Ibid.*, p. 339.

¹⁰ We use *basically* because Aristotle believes that even wealth can corrupt virtuous action.

¹¹ NUSSBAUM, M., *Creating Capabilities. The Human Development Approach*, The Belknap Press of Harvard University Press, Cambridge-London, 2011. Nussbaum enunciates the 10 central capacities, which a minimally just society should foster. She assigns a structural role to two capac-

as it enables us to orient ourselves in the horizon of the choices that contribute to our flourishing. Practical choice cannot be «adequately and completely captured in a system of universal rules»¹², for the mutability, the indeterminacy and the particularity of the practical matter. Universal rules serve as guidelines in moral development, «they guide us tentatively in our approach to the particular, helping us to pick out its salient features»¹³, they make the character of the wise person to become real. However, they cannot constitute deductive scientific knowledge.

Practical wisdom, therefore, uses the rules only as a summary or as a guide; itself must be flexible, ready for surprises, prompt to scrutinize situations and prepared to improvise. Consequently, Aristotle emphasises that the fundamental condition for practical wisdom is long experience, capable of providing the ability to understand and grasp the salient characteristics, the practical meaning, of concrete and particular situations.¹⁴

The construction of a *techne* of practical choice was supposed to cut the force of the passions, through the commensurability of the objects of desire. This project was not shared by Aristotle nor can it be shared by Martha Nussbaum, who, moreover, attaches great importance to the emotions not only within her own eudaimonistic project, but also in the construction of a social-democratic society. *Prohairesis* is the reason of the vulnerable man, «an ability that is on the borderline between the intellectual and passionate»¹⁵.

The ambivalence of vulnerability is outlined: a permanent and inevitable contingent condition, that exposes man to fortune (*tyche*) and at the same time projects him into the horizons of value. The goodness and beauty of human value cannot be understood apart from its vulnerability. The immortality of divinity is precluded by the beauty of just and generous action.

Does the vulnerable posture expose the virtuous man to the pitfalls of fortune? To answer this question Martha Nussbaum poses the question of what kinds of vulnerabilities are compatible with what a human life should be.

ities, practical reason, and affiliation with other human beings. In particular, the capacity for practical reason pervades all the others and represents the possibility of designing one's own life and opportunities for choice and ordering the functioning that correspond to the other capacities (p. 44).

¹² NUSSBAUM, M., *The Fragility of Goodness...*, *op. cit.*, p. 302.

¹³ *Ibid.*, pp. 304-305.

¹⁴ *Ibid.*, p. 305.

¹⁵ *Ibid.*, p. 307.

Every conception of living well presupposes deep convictions on the value that we attribute to others and to the things of the world, «any conception of good living that we will consider rich enough to be worth going for will contain this element of risk»¹⁶, vulnerability to external goods. Practical wisdom, however, makes this vulnerability limited. Good character and practical wisdom make limited vulnerability –Martha Nussbaum is convinced of this in the wake of Aristotle– even an expression or viaticum for beauty.

III. VULNERABILITY: OPENNESS TO THE OTHER

The effort to achieve self-sufficiency, even to the extent of banishing contingency from human life always ends up evoking the particular beauty of the contingent and the mutable, which finds expression in the stories of deities in love with mortals. Part of the particular beauty possessed by human excellence consists precisely in its vulnerability.

The tenderness of a plant is not the dazzling hardness of a gem. There seem to be two, and perhaps two incompatible, kinds of value here. Nor perhaps, is the beauty of a true human love the same as that of the love of two immortal gods, only shorter. The liquid sky that covers these people and circumscribes their possibilities also lends to their environment a quick, gleaming splendour that would not, we suspect, be the climate of heaven¹⁷.

The good man is, therefore, exposed to the solicitations of fortune, but the importance that goods have in eudaimonia –the same goods that determine man's vulnerability to fate– is such as to prefer unpredictability and instability over a stability devoid of objects we value. Not only that.

As Maria Chiara De Nardo rightly observes, «for Nussbaum, in the wake of Aristotle, the awareness of one's own vulnerability, as a prerequisite for the development of virtues, is also a condition for the realization of happiness»¹⁸. Vulnerability, as an onto-anthropological condition of the human, in the posture of fragility and limitation tends man towards the things of the world. It is the potential exposure to risk rather than the risk situation that makes the

¹⁶ *Ibid.*, p. 340.

¹⁷ *Ibid.*, p. 2.

¹⁸ DE NARDO M.C., «Antropo-etica della vulnerabilità al tempo del COVID-19», *Revista Portuguesa de Filosofia*, 77, 2021, p. 831.

exercise of virtue necessary. Need, which is the constitutive mark of fragility, *can be an essential part of the beauty* of the human condition¹⁹.

Vulnerability is, therefore, an ontological condition of finiteness and fragility, but it is also an ethical posture, once *discovered, recognized* and *accepted*²⁰. It is the experience of the limit (finiteness and fragility) shared (dependence), which finds in itself the possibility of overcoming, not immortality, but care, love. In this sense we must interpret the attempt to found modern ethics on vulnerability, the ontological *prius* of every universal principle.

Vulnerability is first and foremost an ontological posture. In recognizing himself as vulnerable, as a finite and fragile being, man opens up to the Other, perceived as taking part in the same existence.

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¹⁹ NUSSBAUM M., *The Fragility of Goodness...*, *op. cit.*, p. 342.

²⁰ DE NARDO M.C., *Antropo-etica della vulnerabilità...*, *op. cit.*, p. 821.