Studies in Feminist Philosophy

Vulnerability

NEW ESSAYS IN ETHICS AND FEMINIST PHILOSOPHY

EDITED BY

Catriona Mackenzie

Wendy Rogers

S[illegible]

Vulnerability

NEW ESSAYS IN ETHICS AND FEMINIST PHILOSOPHY

Edited by Catriona Mackenzie,
Wendy Rogers,
and
Susan Dodds

OXFORD
UNIVERSITY PRESS

OXFORD
UNIVERSITY PRESS

Oxford University Press is a department of the University of Oxford.
It furthers the University's objective of excellence in research, scholarship,
and education by publishing worldwide.

Oxford New York
Auckland Cape Town Dar es Salaam Hong Kong Karachi
Kuala Lumpur Madrid Melbourne Mexico City Nairobi
New Delhi Shanghai Taipei Toronto

With offices in
Argentina Austria Brazil Chile Czech Republic France Greece
Guatemala Hungary Italy Japan Poland Portugal Singapore
South Korea Switzerland Thailand Turkey Ukraine Vietnam

Oxford is a registered trademark of Oxford University Press in the UK and certain other countries.

Published in the United States of America by
Oxford University Press
198 Madison Avenue, New York, NY 10016

Library of Congress Cataloging-in-Publication Data
Vulnerability : new essays in ethics and feminist philosophy / edited by Catriona Mackenzie, Wendy Rogers, and Susan Dodds.
pages cm.—(Studies in feminist philosophy)
Includes bibliographical references.
ISBN 978-0-19-931664-9 (hardcover : alk. paper)—ISBN 978-0-19-931665-6 (pbk. : alk. paper)
1. Feminist theory. 2. Ethics. 3. Vulnerability (Personality trait) I. Mackenzie, Catriona, editor of compilation.
HQ1190.V85 2013
305.4201—dc23
2013014044

1 3 5 7 9 8 6 4 2
Printed in the United States of America
on acid-free paper

Vulnerability

Studies in Feminist Philosophy is designed to showcase cutting-edge monographs and collections that display the full range of feminist approaches to philosophy, that push feminist thought in important new directions, and that display the outstanding quality of feminist philosophical thought.

Recently Published in the Series:

Visible Identities: Race, Gender and the Self
Linda Martín Alcoff

Women and Citizenship
Edited by Marilyn Friedman

Women's Liberation and the Sublime: Feminism, Postmodernism, Environment
Bonnie Mann

Analyzing Oppression
Ann E. Cudd

Ecological Thinking: The Politics of Epistemic Location
Lorraine Code

Self Transformations: Foucault, Ethics, and Normalized Bodies
Cressida J. Heyes

Family Bonds: Genealogies of Race and Gender
Ellen K. Feder

Moral Understandings: A Feminist Study in Ethics, Second Edition
Margaret Urban Walker

The Moral Skeptic
Anita M. Superson

"You've Changed": Sex Reassignment and Personal Identity
Edited by Laurie J. Shrage

Dancing with Iris: The Philosophy of Iris Marion Young
Edited by Ann Ferguson and Mechthild Nagel

Philosophy of Science after Feminism
Janet A. Kourany

Shifting Ground: Knowledge and Reality, Transgression and Trustworthiness
Naomi Scheman

The Metaphysics of Gender
Charlotte Witt

Unpopular Privacy: What Must We Hide?
Anita L. Allen

Adaptive Preferences and Empowerment
Serene Khader

Minimizing Marriage: Marriage, Morality, and the Law
Elizabeth Brake

Out from the Shadows: Analytic Feminist Contributions to Traditional Philosophy
Edited by Sharon L. Crasnow and Anita M. Superson

The Epistemology of Resistance: Gender and Racial Oppression, Epistemic Injustice, and Resistant Imaginations
José Medina

Simone de Beauvoir and the Politics of Ambiguity
Sonia Kruks

Identities and Freedom: Feminist Theory between Power and Connection
Allison Weir

Sovereign Masculinity: Gender Lessons from the War on Terror
Bonnie Mann

Vulnerability: New Essays in Ethics and Feminist Philosophy
Edited by Catriona Mackenzie, Wendy Rogers, and Susan Dodds

{ NOTES ON CONTRIBUTORS }

JOEL ANDERSON

Anderson is a research lecturer in philosophy at Utrecht University in the Netherlands. His research focus lies at the intersection of social philosophy, moral psychology, ethics, and political theory, with a particular focus on how social institutions can enable autonomous agency without sliding into (nudge) paternalism. He is co-editor (with John Christman) of *Autonomy and the Challenges to Liberalism* (Cambridge University Press, 2005) and (with Jos Philips) of *Disability and Universal Human Rights* (Netherlands Institute of Human Rights, 2012). He currently directs an interdisciplinary research project on *scaffolding* for willpower and is currently writing a book developing the concept of *autonomy gaps.*

SUSAN DODDS

Dodds is dean of the Faculty of Arts and professor of philosophy at the University of Tasmania. She has published extensively in feminist bioethics and political philosophy. Her recent work has focused on two areas: deliberative democratic approaches to public policy surrounding ethically contentious issues in bioethics; and the ethical and political obligations arising from recognition of dependency. She is co-editor (with Rosemarie Tong and Anne Donchin) of *Linking Visions: Feminist Bioethics, Human Rights, and the Developing World* (Rowman and Littlefield, 2004), and her work has been published in a variety of edited volumes and journals including *Bioethics, Journal of Bioethical Inquiry, International Journal of Feminist Approaches to Bioethics, Journal of Medical Ethics,* and *Science and Engineering Ethics.*

PAUL FORMOSA

Formosa is an Australian Research Council Discovery Early Career Research Award Fellow and lecturer in the Department of Philosophy at Macquarie University. He was previously a Macquarie University research fellow and has also taught at the University of Queensland. He has published widely on Kant, moral evil, and a range of topics in moral and political philosophy in numerous edited collections and in journals such as *European Journal of Philosophy, Kantian Review, Journal of Value Inquiry, Contemporary Political Theory, Social Theory and Practice, Philosophical Forum, Philosophy and Social Criticism,* and *Journal of Social Philosophy.*

MARILYN FRIEDMAN

Friedman is W. Alton Jones Chair of Philosophy at Vanderbilt University. She has published widely in social and political philosophy, ethics, and feminist philosophy. Her recent books include *Autonomy, Gender, Politics* (Oxford University Press, 2003) and the edited volume *Women and Citizenship* (Oxford University Press, 2005).

MIANNA LOTZ

Lotz is senior lecturer in the Department of Philosophy at Macquarie University. She has published in bioethics, applied ethics, and social philosophy, with a particular focus on questions of parental liberty, the family, adoption, and children's rights and interests. Her work has appeared in a variety of edited volumes and journals, including *Bioethics*, *Journal of Social Philosophy*, and *Journal of Applied Philosophy*.

CATRIONA MACKENZIE

Mackenzie is professor of philosophy and director of the Research Centre for Agency, Values and Ethics at Macquarie University, Sydney. She is co-editor of *Relational Autonomy: Feminist Perspectives on Autonomy, Agency, and the Social Self* (Oxford University Press, 2000), *Practical Identity and Narrative Agency* (Routledge, 2008), and *Emotions, Imagination and Moral Reasoning* (Psychology Press, 2012). Mackenzie has published widely in moral psychology, ethics, applied ethics, and feminist philosophy in a variety of edited collections and in journals such as *Australasian Journal of Philosophy*, *Hypatia*, *Journal of Applied Philosophy*, *Journal of Social Philosophy*, and *Philosophical Explorations*.

AMY MULLIN

Mullin is the vice-principal academic and dean and professor of philosophy at the University of Toronto Mississauga. She is the author of *Reconceiving Pregnancy and Childcare: Ethics, Experience and Reproductive Labor* (Cambridge University Press, 2005) along with numerous articles on children, parenting, and ethics in books and journals such as *Ethical Theory and Moral Practice*, *Journal of Social Philosophy*, and *Hypatia*. In addition to asking about the responsibility individuals and groups have to meet children's needs and the grounds for these moral expectations, she is interested in questions about children's responsibilities and in development of children's autonomy.

WENDY ROGERS

Rogers is professor of clinics ethics in the Department of Philosophy and Australian School of Advanced Medicine at Macquarie University. Her research interests include public health ethics, research ethics, and the ethics

of evidence-based medicine and surgery. She has published in a wide range of journals including *Bioethics, Journal of Medical Ethics, International Journal of Feminist Approaches to Bioethics, Lancet, Mayo Clinic Proceedings,* and *American Journal of Public Health,* and she is the co-author of *Practical Ethics for General Practice* (Oxford University Press, 2004; 2nd ed., 2008).

JACKIE LEACH SCULLY

Scully is professor of social ethics and bioethics and co-director of the Policy, Ethics and Life Sciences Research Centre at Newcastle University in the United Kingdom. She is also honorary senior lecturer at the University of Sydney Medical School. After a first degree in biochemistry and a doctorate in molecular biology, she worked for some years in neuroscience research before becoming involved in bioethics. Her research interests include disability and embodiment, identity, feminist bioethics, reproductive and genetic bioethics, and the formation of public moral opinion. She is the author of *Disability Bioethics: Moral Bodies, Moral Difference* (Rowman and Littlefield, 2008) and co-editor of *Feminist Bioethics: At the Center, on the Margins* (Johns Hopkins University Press, 2010) and *Good and Evil: Quaker Perspectives* (Ashgate, 2007).

JANNA THOMPSON

Thompson is professor of philosophy at La Trobe University. She has published widely in political philosophy. She is author of *Taking Responsibility for the Past* (Cambridge University Press, 2002) and *Intergenerational Justice* (Routledge, 2009) and co-editor of *The Sorting Society: The Ethics of Genetic Screening and Therapy* (Cambridge University Press, 2008). She has taught courses and written articles on feminism, environmental philosophy, philosophy of war and peace, and human rights. She is a fellow of the Australian Academy of the Humanities and the Academy of Social Sciences in Australia.

ROSEMARIE TONG

Tong is Distinguished Professor of Health Care Ethics in the Department of Philosophy and director of the Center for Professional and Applied Ethics at the University of North Carolina, Charlotte. She is internationally known for her contributions to feminist thought and bioethics. Tong has co-authored and co-edited thirteen books, including *Ethics in Policy Analysis* (Prentice Hall, 1985), *Controlling our Reproductive Destiny: A Technological and Philosophical Perspective* (MIT Press, 1994), *Feminist Approaches to Bioethics* (Westview Press, 1996), *Linking Visions: Feminist Bioethics, Human Rights, and the Developing World* with Ann Donchin and Susan Dodds (Rowman & Littlefield, 2004), *New Perspectives in Health Care Ethics: An Interdisciplinary and Crosscultural Approach* (Prentice Hall, 2007) and *Feminist Thought: A More Comprehensive Introduction* (Westview Press, 2013, 4th ed.).

MARGARET URBAN WALKER

Walker is the Donald J. Schuenke Chair in Philosophy at Marquette University. She is author of *Moral Repair: Reconstructing Moral Relations after Wrongdoing* (Cambridge University Press, 2006), *Moral Understandings: A Feminist Study in Ethics* (Routledge, 1998; 2nd ed., Oxford University Press, 2007), and *What Is Reparative Justice?* (Marquette University Press, 2010) as well as a number of articles on reparations and transitional truth-telling. She has contributed to research projects on gender and reparations and on truth commissions with the International Center for Transitional Justice. Her current project is a book on the contemporary practice of reparations.

{ ACKNOWLEDGMENTS }

We are very grateful for the contributors' enthusiasm for this project and for their generosity in responding to editorial comments and suggestions over the development of the volume.

Earlier versions of several of the essays were presented at the International Conference on Vulnerability, Autonomy and Justice, held at Macquarie University in August 2009. We are grateful to all the participants at that conference, especially those who traveled from North America or Europe for the event. The conference was funded by the Centre for Agency, Values and Ethics at Macquarie University and the Faculty of Arts at the University of Wollongong. Additional financial support for the project was provided by a Macquarie University safety net grant, the University of Tasmania, and an Australian Research Council Discovery project grant (DP110102272 "Vulnerability, Autonomy and Justice").

We owe special thanks to Mary Walker for invaluable administrative support, in particular for her assistance in preparing the manuscript, and to Margaret Meek Lange for extensive comments on successive drafts of the manuscript. Thanks also to Eliza Goddard for bibliographic assistance. We are very grateful to Cheshire Calhoun, series editor for Oxford Studies in Feminist Philosophy, for her encouragement and interest in the volume and to Lucy Randall at Oxford University Press for her strong editorial support. We are especially grateful to two anonymous reviewers for Oxford University Press for their constructive criticisms and suggestions.

Finally, we note with regret the untimely death of Soran Reader, who was unable to finalize her planned contribution to this volume.

{ CONTENTS }

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

Catriona Mackenzie, Wendy Rogers, and Susan Dodds

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

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

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

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

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

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

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

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

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

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

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

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

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

1. Theoretical Issues

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

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

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

1.1. WHAT IS VULNERABILITY?

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

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

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

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

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

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