Sexual Violence: Framing the Concepts of Victim and Vulnerability

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INTRODUCTION

Despite the continuing global epidemic of sexual violence in the lives of women and girls, and in the lives of many boys and men as well, sexual violence is much *less* part of a contemporary feminist theoretical agenda than it was forty years ago. Attention to sexual violence has made inroads in public media debates, for example with the accusations of rape against Julian Assange of Wikileaks, and the debates over Dominique Strauss-Kahn's affairs.[1] The 2012 brutal rape and murder in a bus in Delhi of Jyoti Singh, a 23 year old medical student who was returning home from a movie at eight o'clock in the evening with a male friend, brought both national and international outcries. In international bodies of governance, there has also been growing attention to issues of sexual violence in conflict. Security Council Resolution 1325 adopted on October 31, 2000 marks a revolutionary transformation of rhetoric that is the result of relentless labor by the NGO's responsible for the groundwork. It is remarkable to imagine the men of the Security Council taking into their mouths the language underscoring the importance of mainstreaming a gender perspective and the importance of the representation, participation, and protection of women from rape and other forms of sexual abuse (Res. 1325 from 2000); language noting women's empowerment in peacemaking processes (Res.1889 from 2009); and language

1 Alcoff, Linda Martín: Then and Now, in: *Journal of Speculative Philosophy* 26 (2012), pp. 268-278, here p. 271, 273.

reaffirming the need to end impunity and implement a policy of zero tolerance of sexual exploitation and abuse (Res.1820 from 2008).[2]

Forty years ago, with the emergence of second-wave feminism in the 1970's, sexual violence *was* an important part of feminist theorizing, as feminists began to define rape as a cultural and political problem rather than as individual pathology.[3] As Alcoff has noted, feminists began collecting data, publishing first-person accounts, and debating discursive and legal options. Today, however, there has been a change of intellectual climate. There are indeed some feminist philosophers who do important work on sexual violence. In relation to war-time violence, Claudia Card (who died in September 2015) has argued that sexual violence should be included as a central feature in analyses of genocide. Inspired by Orlando Patterson's work on slavery, Card argues that there is a distinctive ethical harm in genocide. Genocide aims not only at the physical death of a group, but it aims to strip victims of the ability to participate in social activities that are central to their lives and cultures. To the extent that sexual violence in war-time undermines social vitality – by disrupting family and community (such as being alienated from one's family by rape) – it creates social death. Although many forms of violence contribute to social death, genocidal sexual violence is a burden that falls heavily on women.[4] Margaret Urban Walker has noted that sexual violence in war is one of the many harms committed in war and genocide which are *gender-skewed* – where destruction of home-sites, forced displacement, and removal to refugee areas may disproportionately affect women – and are *gender-multiplied* – where social and symbolic facts multiply the original harm done to victims.[5] Other feminist philosophers addressing sexual violence in wartime as well as in peace time include Linda Martín Alcoff, Ann Cahill, and Debra Bergoffen.

However, some of the earlier controversies in feminist theories of sexual violence have produced ambivalences that mark contemporary debates. With the

2 Kuehnast, Kathleen/Jonge Oudraat, Chantal de/Hernes, Helga (Ed.): *Women and War. Power and Protection in the 21st Century*, Washington, D.C. 2011, p. 131-155. Resolutions 1325, 1889, 1820, and 1888 are included as Appendices.

3 Alcoff: Then and Now, p. 271.

4 Card, Claudia: Genocide and Social Death, in: Robin May Schott (Ed.), *Feminist Philosophy and the Problem of Evil*, Bloomington/Indianapolis 2007, pp. 71-86, here p. 83.

5 Walker, Margaret Urban: Gender and Violence in Focus: A Background for Gender Justice in Reparations, in: Ruth Rubio-Marin (Ed.), *The Gender of Reparations: Unsettling Sexual Hierarchies while Redressing Human Rights Violations*, Cambridge 2009, pp. 18-62, here p. 49-52.

tough lessons learned from early feminist theoretical work on sexual violence, which stripped sexual violence of its social and historical context and viewed it as a cross-cultural, race-less, universal feature of patriarchy, and with the ongoing importance of attending to intersectionality with regard to whatever topic we address, sexual violence has receded from center stage in contemporary feminist philosophy. Alcoff notes, "The effort to render work on rape more philosophically sophisticated has so far had a deflationary set of effects. This is perhaps a symptom of the general cultural uncertainty about the nature and scope of the problem."[6]

But the concepts and language available for naming and explaining the practices and experiences of sexual violence *are* important. Discourses can play a role in erasing, justifying, trivializing, rationalizing, and covering-up rape, or they can provide grounds for garnering theoretical, legislative, and judicial attention. Here I focus on two key concepts that operate in this field of debate: the concept of the victim and the concept of vulnerability. In the debates surrounding these terms, one can detect a movement of negation, in which discourses developed to address harm and injury fall short of the goals of protecting those who have suffered from such harms, and in some cases undermine the very grounds for respect and recognition. How can one understand this dilemma that the very concepts deployed to acknowledge harms can lead instead to dismissal, denigration, or disgrace?

I suggest that there are three dynamics that are at play in this movement of negation: 1) from social ontology, the tension in the relation between particular groups and the whole may contribute to such a dynamic; 2) from theories of subjectivity, the tension between suffering and dominant conceptions of agency play a contributing role; 3) from a biopolitical perspective, the political order's mechanisms of self-protection may be in tension with the protection of dependent groups. Here I review the fate of the victim concept in Anglo-American anti-rape debates and the recent turn to vulnerability in ethical and political discussions; and I consider what one can learn from these pitfalls about how to frame the concepts of victim and vulnerability.

'VICTIM' CONTROVERSIES IN FEMINIST ANTI-RAPE DISCOURSES

Contemporary Anglo-American feminists may disagree about many things – as in controversies between positions distinguished as radical, liberal, socialist, or poststructuralist – but they largely agree that the concept of victim is 'pathetic',

6 Alcoff: Then and Now, p. 274.

'essentialized', 'reified as pure object';[7] that it serves to 're-objectify the female body';[8] that it makes abuse appear as an 'apolitical' mental health issue rather than a social problem.[9] It seems that Germaine Greer was right when she commented, "Talking about victims these days is so un-PC."[10] Some contemporary feminist authors argue for the need to 'reconceptualize and reappropriate' the word *victimization* and its meaning,[11] to challenge the 'disjunction between victims and survivors',[12] to understand rape in terms of 'embodied intersubjectivity'.[13] But their intervention is a response to the perceived fact that the depoliticized, essentialized, reified, pathetic victim is a category of common currency amongst feminists.

What is less clear, however, is *which* feminists identify with the version of the category of victim that is so roundly criticized. Instead, it appears that 'victim' serves as the negative pole against which feminists define themselves, a category that can be richly filled with the fruits of feminist critiques of reification, objectification, and depoliticization. 'Victim' becomes the category through which the contestation over feminist politics can be worked out. Is feminist politics oriented towards the "practice of sex differentiation" that is implicated in

7 Alcoff, Linda Martín/Gray, Laura: Survivor Discourse: Transgression or Recuperation, in: *Signs. Journal of Women in Culture and Society* 18 (1993), pp. 260-290, here p. 272. My discussion in this section is drawn from my article: 'Not Just Victims…But': Toward a Critical Theory of the Victim, in: Heather Widdows/Herjeet Marway (Ed.), *Women and Violence: The Agency of Victims and Perpetrators*, Houndmills, Basingstoke 2015, pp. 178-194.

8 Lamb, Sharon: Constructing the Victim: Popular Images and Lasting Labels, in: Sharon Lamb (Ed.), *New Versions of Victims. Feminists Struggle with the Concept*, New York/London 1999, pp. 108-138, here p. 113.

9 Ibid., p. 131.

10 Atmore, Chris: Victims, Backlash and Radical Feminist Theory, in: Sharon Lamb (Ed.), *New Versions of Victims. Feminists Struggle with the Concept*, New York/London 1999, pp. 183-211, here p. 204.

11 Mardorossian, Carine: Toward a New Feminist Theory of Rape, in: *Signs. Journal of Women in Culture and Society* 27/3 (2002), pp. 743-775, here p. 771.

12 Nissim-Sabat, Marilyn: *Neither Victim Nor Survivor: Thinking Toward a New Humanity*, Lanham, MD 2009, p. 164.

13 Cahill, Ann J.: Sexual Violence and Objectification, in: Renée J. Heberle/Victoria Grace (Ed.), *Theorizing Sexual Violence*, New York 2009, pp. 14-30, here p. 24.

sexual violence?[14] Or is feminist politics oriented towards the practice of freedom? And if the latter, should women as well as other socially marked groups be wary of a discourse of victimization that "discursively entrenches the injury-identity connection it denounces", as Wendy Brown argues?[15]

Although it is common wisdom that feminism emerged in the 1960's in the U.S. in part from anger at male leftists' attitude that the only position for women in the left was 'on her back', the connections to leftist politics cuts more deeply. Violence in the 1960's was conceived by civil rights protesters, black nationalists, and antiwar protesters as part of a "political universe or order" that denoted a "plurality of system or practices."[16] The war in Vietnam, racism and resistance to desegregation in the South, urban crime, and capitalism, with its endemic problems of unemployment and poverty were all understood as systems of violence. The insight that violence is part of the social order with a multitude of manifestations remained important for the emergence of feminism. It was not so much a question of *whether* violence would occur, but *how* it would occur and impact the body or subjectivity.[17]

Radical feminists embraced this view that violence and alienation are endemic to society, and it was reflected in their position on rape. The New York Radical Feminists (NYRF) treated rape as a means of analyzing oppression.[18] Their goal was not just the elimination of rape, but the elimination of oppression more generally which could only be achieved by a revolutionary transformation of society. They viewed the egregiousness of rape not primarily as an attack on female sexuality, but as an instance of violence and oppression. Haag notes, "Because many of these feminists reasoned that female subjectivity de facto entailed alienation and reification – both identified as forms of violence – they viewed rape as in some respects a *redundant* assault on the body…"[19] A 1968 NYRF caucus at New York University Law School argued for treating rape as an assault "like any other crime […] From any rational perspective, rape is not the worst thing that can happen to a woman."[20] In this respect, their position was not

14 Haag, Pamela: 'Putting Your Body on the Line'. The Question of Violence, Victims, and the Legacies of Second-Wave Feminism, in: *Differences: A Journal of Feminist Cultural Studies* 8/2 (1996), pp. 23-67, here p. 62.

15 Brown, Wendy: *States of Injury: Power and Freedom in Late Modernity*, Princeton 1995, p. 21.

16 Haag: 'Putting Your Body on the Line', p. 25.

17 Ibid., p. 25 f.

18 Ibid., p. 37.

19 Ibid., p. 44.

20 Ibid., p. 40.

so far from the position that Foucault was later to defend amidst feminist controversy, that with respect to rape "when one punishes rape one should be punishing physical violence and nothing but that […] there is no difference, in principle, between sticking one's fist into someone's face or one's penis into their sex."[21]

Controversy about the term 'victim' in feminist discourse emerged not in relation to debates about sexual violence as an *example* of generalized social violence, or even as a *metaphor* for such generalized violence, but as an act of violence that was *unique*. Susan Brownmiller, in *Against our Will*, which became a landmark for second-wave feminism, defined rape as "[a] sexual invasion of the body by force, an incursion into the private, personal inner space without consent – in short, an internal assault […] [which] constitutes a deliberate violation of emotional, physical and rational integrity[.]"[22] She describes the unique dimensions of rape as a taking of sex that is "both a blow to the body and a blow to the mind."[23] Other writers concurred with this view of the "special wrongness"[24] of rape that was linked to the idea that a woman's sex organs are closer to the center of her identity than other parts of the body. It was this notion that rape was a form of violence that attacks and potentially destroys women's subjectivity as no other form of violence does that lies behind this notion of the uniqueness of rape.

The focus on the 'unique' role of sexual violence in violating women's subjectivity contributed to a proliferation of feminist debates about rape, sexual assault, and incest in relation to patriarchal violence. Feminists struggled with the question whether this proliferation of victim or survivor discourse in TV talk shows, radio, popular books, and magazines had a "subversive effect on patriarchal violence", or whether it became "recuperated and coopted" by the very

21 Foucault, Michel: *Politics, Philosophy, Culture. Interviews and Other Writings 1977-1984*, Lawrence D. Kritzman (Ed.), New York/London 1990, p. 200. Cahill notes that although Foucault's position was remarkably similar to current feminist wisdom, feminists responded very negatively to his claims. "Whereas feminist thinkers were seeking to purge rape of its sexual content in order to render moot the legal question of victim [i.e., female] culpability, Foucault viewed the desexualization of rape as a liberating blow against the disciplining discourse that constructed sexuality as a means of social and political power." (Cahill, Ann J.: *Rethinking Rape*, Ithaca 2001, p. 144).

22 Brownmiller, Susan: *Against our Will: Men, Women, and Rape*, New York 1975/ 1982, p. 422.

23 Ibid., p. 423 f.

24 Haag: 'Putting Your Body on the Line', p. 52.

forces which feminists seemingly opposed. In this context, the concept of victim in feminist discourse became a central site of contention.[25]

From a poststructuralist direction, Sharon Marcus' work directly challenged the anti-rape discourse that led to an identity politics invested in women's violability. She criticized Brownmiller's claims that women are inherently rapable, that rape is death, that female sexuality is an inner space which is invaded and violated by rape and that "the entire female body comes to be symbolized by the vagina." Marcus argued against this approach that entails "a complete identification of a vulnerable, sexualized body with the self" and which excludes "women's will, agency, and capacity for violence." Instead, rape should be understood as part of a "rape script", a "grammar of violence", and she defines rape as "a sexualized and gendered attack which imposes sexual difference along the lines of violence." 'Victim' is a momentary role carried out by an actress, rather than referring to victim as a pre-constituted identity.[26]

Tracing the genealogy of the concept of victim in feminist debates shows the emergence of the concept when the discourse shifted from a critique of social and systematic violence to a critique of sexual violence considered unique in destroying female subjectivity. In this sense, the concept of victim became closely associated with the notion of female vulnerability. Brown treated the concept of victim as the anchor for a misguided feminist identity politics in which women became invested in their own wounded identities and in an "eternal repetition of […] pain" rather than as participating in democratic "collective political invention" that reopens "a desire for futurity".[27] Marcus treated the victim as anchored in vulnerability – to be contrasted with empowerment and agency. Both positions operate with the oppositions between vulnerability vs. power and pain vs. freedom that are echoed in the contemporary effort to avoid victim language in favor of discourses of empowerment, survivors, and resilient subjects (e.g., in disaster relief, in the military, in international security).

25 Alcoff/Gray: Survivor Discourse, p. 260. Alcoff and Gray themselves insist on using the term survivor rather than victim, as survivors are victims who are empowered 'to act constructively on their own behalf' and as the term victim has become caught up in the psychiatric establishment's arguments about 'victim personality'. (Ibid., p. 261). But in this way they reiterate the view that the concept of victim is identified with powerlessness and psychiatric disorder.

26 Marcus, Sharon: Fighting Bodies, Fighting Words: A Theory and Politics of Rape Prevention, in: Judith Butler/Joan W. Scott (Ed.), *Feminists Theorize the Political*, New York 1992, pp. 385-403, here p. 387-398.

27 Brown: *States of Injury*, p. 75.

This review of the genealogy of the concept of victim in feminist anti-rape debates indicates that it became highly contested when violence no longer became situated in broad social structures in which all groups and individuals would be effected – such as within capitalism or militarism – but when it became associated with a specific group, the group of women, with the claim of the uniqueness of the violation of female sexuality and subjectivity. The concept of the victim, however, could have brought forth another trajectory of debate. One might have argued that in catching site of rape as an act of violence against women, the victim concept could provide ammunition for fighting other forms of violence and oppression. It could become a maneuver to bridge differences, to highlight solidarity with those who (potentially) suffer from this form of violence, and with those who suffer from other forms of violence. Victims of sexual violence share with victims of hurricanes and earthquakes whose housing collapses because of substandard buildings, whose populations are infected with HIV by UN soldiers who are brought in to aid in catastrophe, the fact that harm is produced by specific human actions and events. The concept of victim could be mobilized to produce solidarity, just as current discussions of vulnerability and precariousness are so mobilized. It could highlight the role of sharing in potential or actual harms, in developing empathetic understanding, common political analysis, and intersecting political projects. In other words, there is a great deal of ethical and political potential in a concept that calls attention to the suffering of harms.

That the concept of victim generally has not been so mobilized, but has rather been consigned to a place of disuse – conjuring images of abandoned trains and buses covered in graffiti and permanently parked, unless there is some unavoidable reason to bring them back into circulation – calls for diagnosis. My suggestion is that one aspect of this marginalizing of the victim concept can be located in the problems of the claims for uniqueness, and what this could imply about the relation between female subjectivity and humanness. Some feminist theorists imply that any claim about how rape assaults female subjectivity constitutes an assault on the claim that women can be fully human subjects with will, agency, political participation, and futurity. But rather than denying that rape assaults embodied subjectivity, one should attend to how the massive problems of male rape in prisons, the military, and during wartime[28] also constitute an assault on male embodied subjectivity. Even if one made claims on behalf of some particular bodies (such as the claim about rape of women and women's rapability),

28 For a discussion male rape, see Sivakumaran, Sandash: Sexual Violence Against Men in Armed Conflict, in: *European Journal of International Law* 18/2 (2007), pp. 253-276.

one does not challenge their share in the universal. In theoretical terms, this paradox is formulated in terms of the relation between universal and particular, and the question whether universals can be gender-neutral. Linda Zerilli notes that the universal is always attached "to some particular body which cannot be fully divested of its particularity", hence can never be "sexually indifferent". And yet the claims "to sexual difference cannot be made in the absence of a universal reference". Hence, there is always the "ineradicable presence both of the particular in the universal and of the universal in the particular."[29]

Moreover, the charge that taking rape as a central issue for feminist and political theorizing implies women's eternal vulnerability, as opposed to agency or political choice, posits a false polarity between this active side of agency and vulnerability, receptivity, and suffering that is firmly embedded in philosophical traditions. Below I will return to this discussion with reference to Soren Reader's claims for patiency and Diana T. Meyers' claims for interactivity. Nor does the victim concept undermine political subjectivity, as Brown's intervention suggests. There is no reason that the recognition of one's own harms forecloses recognition of injuries of other peoples, other situations; no reason to posit that such an interest posits a fixity or rigidity of position in political debate and exchanges that is closed to dialogue and development; no reason to claim that it becomes a one-issue politics that distorts politics as a whole. But the vituperative intensity of feminist exchanges has ignited a movement away from the victim concept and towards vulnerability, which seems potentially more firmly anchored in shared humanness.

THE TURN TO VULNERABILITY

In recent years one can witness both in public documents and in academic debates a growing interest in vulnerability. The *Human Development Report 2014* published by UNDP is titled, "Sustaining Human Progress: Reducing Vulnerabilities and Building Resilience." It defines human vulnerability in terms of a person, community, or country being at "high risk of future deterioration in circumstances and achievement."[30] The Report acknowledges that the poor are in-

29 Zerilli, Linda: This Universalism Which is Not One, in: *Diacritics* 28/2 (1998), pp. 3-20, here p. 16.

30 United Nations Development Program: *Human Development Report 2014. Sustaining Human Progress: Reducing Vulnerabilities and Building Resilience*, New York 2014, p. 15-20.

herently vulnerable because they lack adequate material assets, tend to have poor education and health, and because their access to justice systems is constrained. And it highlights the intensifying risks associated with climate instability and environmental changes, financial instability, regional pandemics, armed conflicts, and failures to enforce international norms, leading to growing vulnerability across borders. *Resilient America*, a focus program of the National Academy of Sciences, highlights the challenges to science and technology related to society's vulnerability to disaster. It also has published a report on the vulnerability of electric power delivery system in the U.S., as the power grid spans hundreds of miles and many key facilities are unguarded, leaving the system vulnerable to terrorist attack.[31]

Vulnerability, derived from the Latin word *vulnus* meaning wound, has gained growing attention in academic research as well. Vulnerability debates congregate in areas of dependency, care ethics, social ontology, as well as about bioethics and research ethics. Positions are defined in terms of those who view vulnerability as a universal category, a broad condition of human existence (e.g., Judith Butler, Martha Fineman, Bryan Turner, Debra Bergoffen) – referring to the inherent vulnerability of corporality and dependency,[32] and those who treat vulnerability in terms of contextual factors, implying that certain individuals or groups are particularly vulnerable.

Butler argues that vulnerability is a universal condition with both ethical and political potential for developing collective solidarity, and a resource to oppose violence.[33] For example, she writes of grief as returning us "to a sense of human vulnerability, to our collective responsibility for the physical lives of others […] To foreclose that vulnerability, to banish it, to make ourselves secure at the expense of every other human consideration is to eradicate one of the most important resources from which we must take our bearings and find our way."[34] And she argues for a social ontology of the body, which acknowledges that one is al-

31 Disaster Resilience in America; Launching a National Conversation, http://nas-sites.org/resilience/nas-reports/ accessed March 24, 2014.

32 Mackenzie, Catriona/Rogers, Wendy/Dodds, Susan: Introduction. What is Vulnerability and Why Does it Matter for Moral Theory?, in: Mackenzie/Rogers/Dodds, *Vulnerability. New Essays in Ethics and Feminist Philosophy*, Oxford 2014, pp. 1-29, here p. 8.

33 Butler, Judith: *Precarious Life: The Powers of Mourning and Violence*, London/New York 2004, p. xix.

34 Ibid., p. 30.

ways "given over to others, to norms, to social and political organizations."[35] She calls this condition of exposure "precariousness", which she considers to be a generalized condition, "the condition of being conditioned".[36] Precariousness points to the way in which life is injurable. It underscores the finitude of life, the fact that "one's life is always in some sense in the hands of the other." With this notion, she argues that exposure and dependency constitute "obligations toward others, most of whom we cannot name and do not know." In this she follows Levinas' view that alterity interrupts the obligations 'we' have.[37] Butler takes the precariousness of life as a point of departure to argue that there is no life that transcends injurability or mortality. However, to acknowledge that there are structural differences regarding vulnerability, she also introduces the notion of "precarity". Precarity in Butler's analytic vocabulary is a political notion, which refers to the differential allocation of this generalized and shared condition of precariousness: "Precarity designates that politically induced condition in which certain populations suffer from failing social and economic networks of support and become differentially exposed to injury, violence and death."[38] And she suggests that precarity is a promising site for coalition politics on the Left that can be the basis of an alliance in opposition to state violence.

In turning to the language of vulnerability and precariousness, Butler seeks to contribute to an ethics based on suffering that is not anchored in the concept of the victim. Enmeshed in contemporary controversies over the critique of the state of Israel, and claims that Jewish critics of the state are self-hating Jews, she writes, "we have now reached a position in which Jews cannot legitimately be understood always and only as presumptive victims." "'Victim' is a quickly transposable term: it can shift from minute to minute, from the Jew killed by suicide bombers on a bus to the Palestinian child killed by Israeli gunfire."[39] Her criticism against an affective and political investment in victim identity, echoing the position of Brown, is directed against the specific rhetorical and political uses and monopolization of the victim concept in the context of Israeli politics. She does not make the case that one who suffers from violence becomes more invested in being a victim of specific harm than in sharing the condition of vul-

35 Butler, Judith: *Frames of War: When is Life Grievable?* London/New York 2009, p. 2-3.

36 Ibid., p. 23.

37 Ibid., p. 14.

38 Ibid., p. 25

39 Butler, Judith: No, It's Not Anti-Semitic, in: *London Review of Books* 25/16, August 21, 2003, http://www.lrb.co.uk/v25/n16/judith-butler/no-its-not-anti-semitic accessed June 30, 2016.

nerability. As Ann Murphy notes, investment in one's vulnerability can also lead to violence: "A sense of one's own dispossession, availability to others, and vulnerability may incite violence just as readily as it does empathy, care, or tolerance […] from the perspective of ethics, there is no normative or prescriptive force to be mined from these experiences."[40] Alternatively, vulnerability may not be enough of an investment to motivate political critique. Based on the genealogy of the discourse of vulnerability in disaster studies, Brad Evans and Julian Reid argue that vulnerability to threat, injury, or loss has become widely valorized as a positive dimension by neoliberal advocates as well as radical liberal thinkers. Continuously exposing human life to dangers to which one must learn to adapt has become the mantra of the discourse of resilience. In their view, the current turn to vulnerability by both policy makers and what they call ideologues implies an abandonment of the political goals of resistance and changing the world for human ends. Hence, they argue that the ontology of vulnerability as exemplified by Butler leads to a nihilistic view which is "politically catastrophic".[41]

But whether or not one accepts an ontological approach to vulnerability, it is not adequate to address the specific issues of dependency, disability, or confinement that come into play in bioethics or in state regulations of specific populations. Hence there is considerable work analyzing vulnerability in terms of contextual factors, and developing and refining taxonomies of vulnerability. This taxonomy includes the distinction between three different sources of vulnerability (inherent, situational, and pathogenic) and different states (dispositional and occurrent).[42] Kenneth Kipnis develops a bioethical taxonomy of sources of vulnerability relevant to the context of human research: cognitive (whether an individual lacks the capacity to deliberate and decide), juridic (whether an individual is subordinate to the legal authority of others), deferential (whether an individual has a readiness to accede to the perceived desires of certain others), medical (whether an individual is in a medically exigent state), allocational (whether an

40 Murphy, Ann V.: 'Reality Check': Rethinking the Ethics of Vulnerability, in: R.J. Heberle/V. Grace (Ed.), *Theorizing Sexual Violence*, New York/London 2009, pp. 55-71, here p. 56.

41 Evans, Brad/Reid, Julian: Dangerously Exposed: The Life and Death of the Resilient Subject, in: *Resilience. International Policies, Practices, Discourses* 1 (2013), pp. 83-98, here p. 97. See my critique of Evans and Reid in Schott, Robin May: Resilience, Normativity, and Vulnerability, in: *Resilience: International Policies, Practices, Discourses* 1 (2013), pp. 210-218.

42 Mackenzie/Rogers/Dodds: *Vulnerability*, p. 7.

individual is lacking in social goods), infrastructural (whether and individual lacks access to social, economic, organizational, and political resources).[43]

Although a contextual approach to vulnerability has as its goal the protection of specific individuals or populations, it defines a minority population in relation to a majority population in terms which are not neutral, but are embedded in ethical and legal hierarchies about worthy and unworthy lives. The historical events that brought about explosive growth in biomedical debates can be traced to the eugenics movements and the crimes of medical torture tried at the Nazi Doctors' Trial in Nuremburg. Yet more recent medical experiments have continued these earlier biopolitical strategies – as with the Tuskegee Syphilis Experiment in the U.S. (1932-72), the administering of untested AIDS treatment to orphans in Bucharest, Rumania (1990), and the use of experimental drugs for participants in Desert Shield (U.S. operation in Iraq). The 1979 Belmont Report in the U.S. aimed to establish a code of research ethics which would protect vulnerable populations. But in its categorical distinction between vulnerables and non-vulnerables, the Belmont Report posits an opposition between self-determination and vulnerability. In this approach, human personhood, including how one understands the structure of the self-to-self relation and the self-to-other, is analyzed as different in *kind* amongst non-vulnerables and vulnerables, rather than as differences in *degree*.

Intent on rejecting an investment in victim identity, the turn away from the concept of the victim has contributed to a burgeoning interest in human (as well as animal) vulnerability. But ontological approaches to vulnerability do not solve the problem of whether individuals or groups are too much, or too little, invested in harm and suffering to fuel normative and political projects. And contextual approaches to vulnerability reinstall hierarchies of worthy and unworthy lives in spite of their mission to protect. Again one faces the question of how the very concepts introduced to address fragility and harm carve out a conceptual approach that repeats the distinctions between lives worth living and lives not worth living–the very distinction that it seeks to undermine.

As suggested earlier, I want to propose three possible candidates for explaining this movement of self-undermining of these concepts. The first axis of this dynamic of negativity occurs in relation to the part in relation to the whole, the minority in relation to the majority, or the particular in relation to the universal.

43 Kipnis, Kenneth: Vulnerability in Research Subjects: A Bioethical Taxonomy, in: National Bioethics Advisory Commission [NBAC], *Ethical and Policy Issues in Research Involving Human Participants, Volume II: Commissioned Papers*, Rockville, MD 2001: G1-G13. http://www.aapcho.org/wp/wp-content/uploads/2012/02/Kipnis-VulnerabilityinResearchSubjects.pdf accessed July 1, 2016.

Here one can ask whether the part/minority/particular is an exemplification of qualities that characterize the whole, an exception to it, or an excluded outside which is the condition for the whole/majority/universal? In the genealogy of the victim in feminist anti-rape debates, the turn away from the victim was in response to the claim of the uniqueness, the exceptional features of rape. Instead of arguing that rape exemplifies qualities of embodied subjectivity that characterize the human,[44] many feminist theorists viewed it as a problematic exceptionalism for feminist politics. In vulnerability debates, there is a robust defense of the claim that vulnerable individuals or populations manifest basic human features. Jackie Scully suggests that

> "what have been thought of as special vulnerabilities, such as the vulnerability of disability, can always be seen as particular manifestations of a broad ontological vulnerability to do with being human…The reason that this shift in perspective is important is that if we perceive what I called earlier the special vulnerabilities of disabled people as exceptional – that is, as an additional set of vulnerabilities on top of the standard vulnerabilities of normative human life – they… become anomalies that fall outside the accepted framework of everyday life."[45]

Only through viewing context-dependent vulnerabilities as exemplifications of basic human features can one avoid the normative distinction between normal and abnormal, in which vulnerabilities provide the measure against which normality and autonomy are understood.

The second dynamic in the motor of this self-undermining of the concepts of harm is located in the *characteristics* by which particular minority groups are circumscribed: the features of suffering, passivity, what Soran Reader has called "patiency". As Reader argued, theories of personhood generally overlook non-agential features. But personhood is not adequately understood strictly in terms of action, capability, choice and independence, as these very features also presuppose incapability, necessity, and dependency for their realization.[46] Actions involve having beings which the action affects, "patients", in Reader's words. Capabilities presuppose passive features – if one is able to do one thing, then one

44 Debra Bergoffen argues this in Bergoffen, Debra: February 22, 2001. Toward a Politics of the Vulnerable Body, in: Robin May Schott (Ed.), *Feminist Philosophy and the Problem of Evil*, Bloomington 2007, pp. 121-139, here p. 123.

45 Scully, Jackie Leach: Disability and Vulnerability: On Bodies, Dependence, and Power, in: Mackenzie/Rogers/Dodds (Ed.), *Vulnerability*, pp. 204-221, here p. 218, 206.

46 Reader, Soran: The Other Side of Agency, in: *Philosophy* 82 (2007), pp. 579-604, here p. 579.

is unable to do another, because surely one is not able to do everything. Hence it is surprising, Reader notes, that while within the field of epistemology one has been able to appreciate the role of receptivity as interdependent with spontaneity in knowledge, the same recognition for receptivity and suffering has not been acknowledged in metaphysics, ethics, or politics. As long as the concepts of persons resist non-agential features such as patiency, incapability, necessity, and dependence, vulnerability will be allocated to others who will be distinguished from those bearing full markers of agency.

Yet in calling on patiency to highlight features of agency that are undervalued in philosophical approaches, Diana T. Meyers argues that Reader falls into the trap of maintaining the active/passive contrast regarding selfhood, a dualism that Harry Frankfurt insisted forty years ago should be discarded.[47] What Reader refers to as patiency, under the category of passivity, should more properly be called interactivity, as it refers to an agent's receptivity and responsiveness in relation to external and internal factors, including enculturation, social interaction, and embodied skills. In doing so, Reader not only wrongly names these dimensions of subjectivity, but in aligning them with suffering, Reader undermines the possibility of recognizing the harms to victims. For if all receptivity is understood under the category of suffering, one loses the possibility to critique and protest distinctive forms of violence and suffering. Moreover, Meyers argues, in adulating passivity as a dimension of agency, Reader reiterates the false stereotypes that proliferate about victims as passive.[48] Instead of further humiliating and marginalizing victims, one should promulgate a conception of victimhood that gives them standing both as victims and as agents with a claim to respect.[49] Here it is evident again that attempts to articulate qualities of suffering and harm become caught in the quagmire in which the proliferation of demeaning stereotypes and disrespect for victims undermines attempts to mark a conceptual field for respect for those who have suffered harm.

The third dynamic in this movement of negation is found in political orders. To return to the example of Nazism, it is important to recall that Nazism claimed to protect itself against an infective disease, as Jews were portrayed as "bacilli", "bacteria", "viruses", and "microbes".[50] In Roberto Esposito's interpretation, this

47 Meyers, Diana T.: Passivity in Theories of the Agentic Self. Reflections on the Views of Soran Reader and Sarah Buss, unpublished manuscript, p. 1 f.

48 Meyers, Diana T.: *Victims' Stories and the Advancement of Human Rights*, New York 2016.

49 Meyers, Diana T.: Passivity in Theories of the Agentic Self, p. 7.

50 Esposito, Robert: *Bios: Biopolitics and Philosophy*, Timothy Campbell (Trans.), Minneapolis 2008, p. 116.

invites drawing on the category of immunization, as only immunization displays the paradox that the protection of life pushes itself over to its own negation and self-destruction. As in autoimmune illness, when the protective apparatus becomes so aggressive that it turns against its own body which it should protect, so to with the Nazi project of disinfesting itself from the Jews.[51] With this historical reference in mind, we should be cautious of discourses in biomedical research ethics which carry forth fundamental distinctions between non-vulnerables and vulnerables. Although such codes explicitly seek to protect dependent, burdened, or incompetent groups, it may be the logic of self-protection of a political community that shines forth.

VICTIM OR VULNERABILITY

This trajectory of analysis leads one to question which concept is best suited to address issues of sexual violence, and violence more generally, and which should be discarded. One could, for example, argue that the victim concept is sharper analytically as well as rhetorically for addressing these issues. Vulnerability, in its ontological form, may operate so generally that it does not function well in enabling analyses of specific social, political, and economic forms of harm, or in motivating ethical analysis and movements for social justice. Yet proponents of vulnerability as a concept for our age would argue that precisely because it is so encompassing, the concept of vulnerability helps decenter ethnocentric assumptions of privilege, helps decenter an anthropocentric attitude toward life (and opens to an understanding of shared vulnerabilities with nonhuman species), and contributes to a critical vitalistic approach to the planet (and acknowledges human participation in the networks of life-technologies).

What is evident, however, is that the critique of the concept of victim, which motivated a displacement of interest from the field of sexual violence and buttressed an interest in vulnerability, is unfounded. Whereas the victim concept runs into trouble and into a potential spiral of self-undermining in the axes of social ontology (problems of exceptionalism), subjectivity (problems of suffering), and the political (political self-protection), the very same trouble and self-undermining takes place with the concept of vulnerability. On this basis, the lat-

51 Esposito notes that "the gas used in the camps passed through shower tubes that were allocated for disinfections…" And as the Warsaw ghetto was constructed in a zone that was already contaminated, the Jews really became infected and were now agents of infection. (Ibid., p. 117).

ter is surely no better suited to address ongoing and persistent problems of sexual violence. Although legitimate criticisms have been made of the abuse and appropriation of the concept of the victim, as in the case of Israeli politics, the criticism is properly directed against the political dynamics of displacement and occupation. Yet targeting the concept of victim has contributed to a theoretical disengagement with issues of sexual violence.

The concept of the victim remains crucial in highlighting actual concrete events, actions, and wrongs that have created harm and suffering. In this sense, it remains vital for projects of ethics and justice, including issues of recognition, legal judgments, apologies, and reparations. Yet vulnerability as a concept can help break open the narrowness in conceptions of who is at risk for becoming a victim and who requires protection in the laws of peace and war. For example, recognizing human vulnerability to sexual violence can help broaden the recognition that men and boys are also victims of sexual violence (often in the military, in prisons, and in war), which is an important corrective to the problematic gender binaries embedded in Res. 1325. Yet recognizing human vulnerability to sexual violence does nothing to sharpen our critical attention to problematic assumptions about such violence. It is crucial to challenge common assumptions, such that African men are pathologically violent and prone to participate in sexual violence as a weapon of war; to challenge the overly narrow focus on sexual violence in wartime which neglects sexual (and non-sexual) violence in peacetime; to challenge the tendency to remove rape in war from the wider social, cultural, economic, and political contexts. In other words, we cannot do without the concept of the victim to attend to the ongoing assaults of sexual violence, but we need not choose between these two concepts. What is required is conceptual and political savviness so that we can self-consciously navigate the undercurrents which so easily lead the discourses of harm down the path of self-undermining.

CONCLUSION

It might be useful to recall Herbert Marcuse's discussion of the dialectical nature of concepts: "all categories that describe the given form of existence as historically mutable become 'ironic': they contain their own negation."[52] If the concepts of victim and vulnerability reflect historical forms of political existence, then what would it mean to think about the dialectical negation of these con-

52 Marcuse, Herbert: The Concept of Essence, in: Herbert Marcuse, *Negations: Essays in Critical Theory*, Jeremy J. Shapiro (Trans.), Boston 1968, pp. 43-87, here p. 86.

cepts – rather than the movement of self-undermining? Instead of bracketing the concepts of victim and of vulnerability, I suggest retaining them and mining them for critical resources. The concept of victim points to a contradiction at the heart of the political, a contradiction between the potentiality of freedom and the harms of systemic violence. As a critical concept, it poses the question whether the contradiction between freedom and violence is constitutive of the political or whether it is contingent. Given the human conditions of finitude and mortality, one cannot eliminate human vulnerability to loss or suffering due to illness, accident, or even some instances of injustice. But it is decisive whether these forms of loss are due to the contingency of events or to domination and systemic violence. Similarly, the critical potentiality of vulnerability shows the discrepancy between ontological dimensions of vulnerability and systematic distributions of certain forms of vulnerability (which become evident with respect to disaster, war, and the current refugee crisis). As critical concepts, victim and vulnerability press us to distinguish between contingent and systemic harms. A critical approach sees the potential negation of these concepts not in their disappearance as concept or perspective but in their demand to transform the historical forms of political existence based on systemic violence into a form of political existence in which violence, though ineradicable, is contingent rather than constitutive.

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