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The Importance of Emotion and Humanity for a Better Form of Liberalism

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I. Introduction

The main purpose of this paper is to clarify the relationship between the concepts of humanity and emotion, which Martha C. Nussbaum focuses on in her work *Hiding from Humanity*¹ and to explore a proper form of liberalism.

II. Repressive Tendencies in the Concepts of Humanity and Liberalism

In her work *Hiding from Humanity*, Martha Nussbaum, one of today's most influential political philosophers, discusses the role of emotions in law, as indicated in the work's subtitle, *Disgust, Shame, and the Law*.

Her argument cannot be understood simply as an applied theory that only discusses the specific legal problems of a particular area; in this case, the problematic situation in the U.S. regarding policies, trials, and other social practices (Nussbaum, p.1²). At the same time, Nussbaum focuses on a larger and more fundamental problem with which many philosophers have traditionally dealt—how the concept of

¹. Martha C. Nussbaum, *Hiding from Humanity: Disgust, shame, and the Law*, Princeton University Press, 2004.

². For example, a judge ordered a man convicted of larceny to wear a shirt stating, "I am on felony probation for theft." This type of punishment is called a shame penalty.

humanity should be defined. The phrase “hiding from humanity” might sound curious to most of us, because it seems to imply a desire to keep one’s distance from “being human.” What exactly does this expression mean?

Taking emotions as an object of study, Nussbaum responds to the criticism that communitarianism and feminism often cast on liberalism—that liberalism is a political theory that tries to construct basic social institutions on the basis of the abstract idea of a free, equal, and independent individual. In this context, issues concerning allegedly “abnormal” groups of citizens such as the disabled, women, and homosexuals are often regarded as peripheral. Therefore, liberalism cannot properly deal with these serious problems.

Nussbaum seems to agree with this criticism. However, she reformulates the problem from a completely different perspective, stating that it originates from our common emotions. When people say things like “normal people wouldn’t do such a thing!” in daily conversation, “normal people” are usually taken (depending on the context of the conversation) to mean the average members of society, the able-bodied, or heterosexuals. Whether we are conscious of it or not, the “abnormal” citizens such as drug addicts, homosexuals, and the disabled are excluded from the category of human beings in an *emotional manner*.

This type of thinking also appears in liberalism, which has often stressed the idea of a competent and independent citizen. Taken to its inevitable conclusion, the idea then follows that one looks down on a person who is dependent on others (the disabled are a prime example of this). The dependent are branded as no longer human. Thus, one can use that ideal image of a citizen to justify the majority emotionally repressing the minority. The general thinking about humanity involves an element of discrimination against the minority, and even liberalism cannot be freed from this failing.

As Nussbaum indicates, this is not an issue inherent only to liberalism, as communitarianism and feminism suggest. Discussions about morality, law, and justice include an element of searching for the ideal vision of humanity or human society. However, regardless of how the image of an ideal person or society would be, it provokes an unacceptable aggressive reaction because it is connected to the majority’s desire to see themselves as the *ordinary* members of society. Therefore, liberalism’s biggest problem lies not in its fundamental concepts, but in its willingness to overlook the repressive tendencies of humanity that are embodied in emotions and to leave the social problem of stigmatization unresolved. In order to solve these problems, Nussbaum draws on the insights of literature as well as psychological, sociological, and psychoanalytical studies.

III. Disgust and Shame: An Escape from Humanity

Emotions are typically considered visceral and irrational, and therefore, many legal theories (especially the liberal or progressive ones) often prohibit legislating influenced by emotions. The law has been required to keep its distance from the irrational parts of the human state of mind, like emotions. Although Nussbaum argues against a conservative position that contends emotions (such as disgust and shame) should serve as the basis of legal regulations for some types of *substandard* actions (alcohol or drug abuse, homosexuality, etc.), she does not completely deny the relation between emotions and law.

Nussbaum suggests two important points about emotions. First, our emotions are always intentional, that is, they have an object, and involve some belief that evaluates the object of the emotion. Emotions have cognitive or evaluative functions. If we consider the process of their formation or the content of the cognition involved to be “proper,” we determine that that emotion is reasonable. It follows that if we are permitted to judge which emotions are proper, then we should also be able to judge whether some emotions are more pertinent than others, even in the area of law.

The second point is that societies determine which objects they deem appropriate for a given emotion. There is, presumably, some universal object for any given emotion, but the social constructs of individual societies determine most of the objects of emotions. For example, homosexual acts have been the object of disgust in many societies, but such emotion is in fact a social construct.

What type of emotion then qualifies as reasonable? Moreover, if it is deemed reasonable, can we therefore consider it rational? The philosophical tradition and recent studies based on psychological experiments both typically define anger and indignation as a reaction to harm or offense. Societies are entitled to and must protect their members from such harm, using the law. Thus, identifying the cognitions involved in the emotion of anger can provide an important guidance when the laws of societies deal with that harm. Other emotions like compassion, grief, or fear might also become a valuable index in lawgiving.

However, disgust and shame totally differ from the emotions mentioned above. They clearly contradict the idea of law, given their social impacts in the whole history of human societies. According to Nussbaum, these two emotions are caused by the recognition that we are extremely far from what we should be; that is, they are a reaction to human vulnerability. We are in fact weak, mortal, decaying, and incomplete. Moreover, both emotions provoke aggressive offenses towards others in society through the construction of a stratum among citizens. Disgust identifies the majority/minority as man/animal, as shame does with normal/abnormal. The majority or dominant groups project the alleged properties that show their *own*

vulnerability onto the subordinate groups. This projection contributes to the establishment of hierarchies among citizens and reinforces the stigmatization, with the result that the minority is disgusted or feels ashamed.

The effect of this projection of disgust and shame is to cover up human finiteness. This cover up eases our minds, even though it is only superficial. Connecting these problematic emotions to law often encourages social discrimination. Using shame to deter crimes or a judge showing disgust toward a cruel murderer during the penalty phase appears to be acceptable, but such actions do not always result in a favorable consequence. Rather, they perpetuate the stigma of criminals. Therefore, societies should dismiss such proposals.

IV. Liberalism of Interdependence: Reconciliation with Humanity

To prevent a society from being repressive, we need “a political conception of the person” that acknowledges that “we all have mortal decaying bodies and are all needy and disabled, in varying ways and to varying degrees” (Nussbaum, p.341). The capability approach, which Nussbaum established with Amartya Sen, satisfies such a requirement. This approach focuses on human vulnerability or our limited capacities as human beings, examining how far each individual can exercise her or his own functions. Social institutions established for the needs of “normal” people are in fact highly repressive to all citizens because there is no completely normal person. The concept of such person is only a legal fiction. Liberal societies should not pursue the fiction of a normal, complete, and independent citizen, but cherish and develop the ability to “enjoy relations of interdependence” and to “acknowledge incompleteness, animality, and mortality in oneself and in others” through “public education and the general crafting of public institutions and a public culture” (Nussbaum, p.348).

Disgust and shame have created a barrier to the realization of a liberal society based on freedom and equality by concealing our own tendencies, such as decay, mortality, and incompleteness. In other words, a liberal society must be one that actively tries to dissolve all irrational hierarchies among human beings. Many cultures only emphasize the vulnerability of some of their members, using irrational emotions. Societies must recognize that all of their citizens are potentially vulnerable and that in order to deal with any kind of disability, they must firmly insist on the enforcement of individual rights and guarantee the equal protection of the law for all citizens. The idea of rights is so important in this context because such security is not a privilege for some people but meets the general needs of all citizens, each of whom is always at risk of becoming an object of social discrimination and stigmatization. Livelihood protection programs, basic laws on gender equality,

special care for the disabled, and measures to prevent hate crimes are useful even for the people who do not receive a direct benefit from these policies.

As our daily emotions have strengthened social hierarchies, it is crucial that the psychology of citizens support the realization of stable liberal societies. Therefore, what are the proper emotions for liberalism? Even if, following Nussbaum, we could become aware of how our thinking is involved in emotions, which is inhuman in that it provokes an aspiration for an impossible completeness and omnipotence, we cannot easily dispose of those emotions, however problematic they may be. To accept our own death, decay, and uncertainty of life is a quite heavy task. Liberalism requires something that appears dreadful to us, telling us to see what we do not want to see, as Nussbaum herself wrote. However, she also indicates that the form of liberalism she proposes, namely, liberalism of interdependence, is not necessarily so severe. She provides Donald Winnicott's *subtle interplay* as one example of a suitable state of mind on which a liberal society should be based. Nussbaum paraphrases it as love that can only be realized as "a relation between imperfect and mortal beings" (Nussbaum, p.349). Liberalism might offer us a relief that is completely different from what disgust and shame provide at the expense of others—a superficial and therefore anxious ease. Eventually, unless we accept the finite nature of human beings and reconcile us to our genuine humanity, we will never be truly satisfied with our own lives.

V. Conclusion

Liberalism requires two ideas of humanity: human beings as they are and human beings as they should be. In other words, it requires an idea of people as varyingly disabled and interdependent and people as free and equal. The problem regarding humanity is much more serious than the criticism offered by communitarianism and feminism, because it is not a problem within a particular theory but a general problem concerning our common sense, of which we cannot easily rid ourselves.