

Health care and human vulnerability: A Confucian perspective

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I. Introduction

It is widely accepted that we bear special responsibilities to those who are vulnerable, especially those who are vulnerable to our actions and choices. However, exactly who fall under the category of the vulnerable? What special responsibilities do we have toward them? And on what ground? These are the main questions this paper attempts to address. The question of who fall under the category of the vulnerable is a conceptual one. A satisfactory account of the category in question requires not only that we should be able to describe the extension of the “vulnerable” but also that we are able to provide some reasons for ascribing vulnerability. Otherwise, “vulnerability” functions no more than a label. However, why should we care about vulnerability? Why should we care about vulnerable people? Some might say that we should care about them because justice requires us to do so. In what follows, however, I shall argue that justice cannot fully account for the widely held moral intuition that we have special responsibilities to the vulnerable people, and that the Confucian can provide a better explanation for that intuition.

II. Human vulnerability

Some people are more vulnerable than others. Children, the elderly, women, the disable and the severely ill are commonly deemed as the social groups which fall under the category of the vulnerable. But what enables us to ascribe vulnerability to these social

groups? And what exactly is “vulnerability” meant? One definition is that “vulnerability” means being susceptible of injury. At first brush, the definition successfully captures the ordinary meaning of the notion. It makes perfectly good sense to speak of children, for instance, being vulnerable because they are easily injured. Construed this way, vulnerability is then essentially a matter of being under threat of harm¹. However, this construal of the notion is deficient since not all kinds of vulnerability are constituted by threats. There are some kinds of vulnerability which are constituted by prejudices or unjust discriminations. These later cases, then, cannot be explained by the aforementioned definition. Accordingly, the definition would result in a narrowly construed notion of vulnerability. A drawback of the narrowly construed notion is that using it would obscure our moral focus with regard to the ethics of vulnerability. Using the narrowly construed notion would narrow the scope of our moral concerns about vulnerable people by merely focusing on threats to which they are vulnerable. The moral focus of the ethics of vulnerability would then be how to prevent harm from befalling them. But if there are some kinds of vulnerability which are due to prejudices or discriminations, our ethics of vulnerability ought to go beyond the moral injunction to prevent harm from befalling them. The equalitarian, for instance, might argue that we have moral responsibilities to help those who are extremely vulnerable so as to reduce the social inequalities. Obviously, reducing social inequalities and preventing harms are two different moral objectives.



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The phenomenology of human vulnerability and a wider moral concern about human vulnerability than preventing harms from befalling the vulnerable prompt us to seek for a less presumptuous account of “vulnerability”. In what follows, I shall offer an alternative account of the notion which is, I think, less presumptuous. My analysis of the notion draws on the idea of human capability which was first used by Amartya Sen in assessing life quality and developed by Martha Nussbaum in her political theory. Let us first give a brief explanation of what human capability is meant by Sen. On some occasion, Sen explicitly defines “capability” as «the ability to achieve»². However, the definition does not give much help for understanding what Sen means by “capability” because he is not using the term “ability” in its ordinary sense too. On some other occasion, Sen give the following definition: «A person’s “capability” refers to the alternative combinations of functionings that are feasible for her to achieve»³. By “functioning” or “human functioning”, he refers not only to voluntary action such as walking but also to involuntary action such as breathing. However, Sen also extends the meaning of “functioning” to include a person’s state of existence such as being healthy. Thus, a person’s capability may involve not only voluntary actions such as walking and involuntary actions such as breathing but also states of existence such as being healthy. Two things should be borne in mind concerning the above definition. First, although a person’s capability involves a set of functioning combinations, it does not follow that the person has to achieve or perform the functionings of the set. It is obvious that a person who is capable of killing does not have to kill. Second, in most of the cases, a person’s capability of doing something involves a set of her natural abilities which enable her to do that

The children before birth are more vulnerable because of their incapacities to defend themselves. They rely on their mothers for their survival

thing. However, the person’s capability of doing that thing is not identical to her natural abilities set in question. For Sen, a person may have a set of natural abilities which enable her to walk, but lacks the capability of walking, if that person is tied up by somebody. Or a person may have a set of natural abilities which enable her to vote in an election but lacks the capability of doing so if she is under age or the law does not allow women to vote. Thus, women in a patriarchal society are less capable than women in a more equal society. That is why Sen refers not only to human functionings but also to a person’s feasibility of achieving those functionings when defining “capability”. The feasibility of achieving a certain set of functionings involves not only a person’s natural abilities but also the institutional arrangements of society.

Now let us turn back to the notion of vulnerability. By invoking the idea of human capability, it seems to be a straight forward task to give a satisfactory explication of the notion. The intuitive idea is that a person’s vulnerability is constituted by her incapability. Suppose (C1, C2, C3... Cn) is a set of capabilities which are deemed as essential for a human adult to function normally. Then, we may define “vulnerability” as lacking some of the capabilities in the set. More capabilities in that set a person lacks more vulnerable she is⁴.

1. The vulnerability of children

Children lack the following capabilities. They lack the capability of fending for themselves, protecting themselves from injury, making right decisions and solving problems for themselves. In a nut shell, they lack the capability of leading an autonomous life. Obviously, these are the capabilities which a human adult should

possess if she is to function normally, i.e., capabilities which should be included in (C1, C2, C3...Cn). It is exactly because of lacking these capabilities that makes children vulnerable. Children before birth are even more vulnerable, then, because they are less capable of fending for themselves and rely more on their mothers for their survival.

2. *The vulnerability of women*

Martha Nussbaum gives the following vivid description of the situation of women: «Women in much of the world lack support for fundamental functions of a human life. They are less well nourished than men, less healthy, more vulnerable to physical violence and sexual abuse. They are much less likely than men to be literate, and still less likely to have preprofessional or technical education. Should they attempt to enter the workplace, they face greater obstacles, including intimidation from family or spouse, sex discrimination in hiring, and sexual harassment in the workplace... All these factors take their toll on emotional well-being: women have fewer opportunities than men to live free from fear and to enjoy rewarding types of love – especially when, as often happens, they are married without choice in childhood and have no recourse from bad marriages. In all these ways, unequal social and political circumstances give women unequal human capabilities»⁵.

The above description of women's situation gives us some idea about the nature of the vulnerability of women. Women's vulnerability is largely due to their inferior status. It is their inferior status that makes them lack the capabilities which an average male adult in a democratic society have. However, besides the social and political arrangement, there is some condition under which

women are deemed as especially vulnerable, i.e., getting pregnant. We can make pregnant women less vulnerable by improving their social and political conditions. But it is hardly possible to eliminate completely vulnerability due to pregnancy.

3. *The vulnerability of mentally and physically handicapped people*

The vulnerability of the mentally disable can be explained in a way similar to the explanation of the vulnerability of children. The mentally disable also lack the capability

of defending themselves, protecting themselves from injury, making right decisions and solving problems for themselves. That is to say, they lack the capability of leading an independent life.

The physically handicapped people are

however vulnerable in a different way. Among the physically handicapped include blind people, deaf people and those who lost their limbs. The vulnerability of this group is mainly due to lacking the capability of performing certain bodily functions such as seeing, hearing and walking. Failing to perform those bodily functions makes them more difficult to control their living.

The disable, whether mentally disable or physically disable, are vulnerable not only because they lose some abilities, mental or physical, but also because they are victims of discrimination. Like women, their vulnerability is partly due to the social practices or arrangements in society.

4. *The vulnerability of the elderly*

Elderly people are often thought as weak, dependent, prone to confusion, and less capable than younger adults. This picture of the elderly, although may not represent the

We have a special responsibility to the persons vulnerable as the children, the elderly, the women, the disabled and the sick

whole truth of living in old age, captures the situation which many old people encounter. The matter of the fact is: declining health does prevent elderly people from retaining the degree of independence younger adults enjoy, and at some point in their old age, most need care. Due to declining health, they lack the capability of fending for themselves. Declining health is a major factor which contributes to the vulnerability of most elderly people. Having severe illness is the next major factor which makes elderly people vulnerable. Elderly people who have severe illness, say, dementia, are even more vulnerable since they are less capable of fending for themselves than the old adults who do not have severe illness.

Like the disable, the elderly are vulnerable not only because their health is declining or because they have severe illness but also because they are victims of discrimination. The old people who are capable of holding jobs often cannot get work not because jobs are scarce, but because there are prejudices against old workers. Therefore, the vulnerability of the elderly is also like that of the disable. Their vulnerability is partly due to social practices or arrangements in society.

III. The general moral position of the Confucian perspective on our special responsibilities to the vulnerable

In this section, I shall address the following two questions: Do we have special moral responsibilities toward the vulnerable? If we do have such responsibilities, on what ground so do we? In what follows, I shall give a brief description of the moral position of the Confucian perspective with regard to the above questions. In the Confucian classic *Liji* or *The Classic of Rites*, there is a passage from the chapter entitled “Li Yun” which most of the Confucian scholars take to be representing the important social and political ideal of Confucianism. According to that passage, Confucius walked on the terrace over the gate of Proclamations, looking sad and sighing. His

disciple, Yan Yan asked him what he was signing about. Confucius gave the following reply: «I never saw the practice of the Grand course, and the eminent men of the three dynasties; but I have my object (in harmony with theirs)» (“*Li Yun*”, *Liji* or *The Classic of Rites*).

He then went on to describe the practice of the Grand course: «When the Grand course was pursued... men did not love their parents only, nor treat as children only their own sons. A competent provision was secured for the aged till their death, employment for the able-bodied, and the means of growing up to the young. They showed kindness and compassion to widows, orphans, childless men, and those who were disabled by disease, so that they were all sufficiently maintained. Males had their proper work, and females had their homes... In this way (selfish) scheming was repressed and found no development. Robbers, filchers, and rebellious traitors did not show themselves, and hence the outer doors remained open, and were not shut. This was (the period of) what we call the Grand Union» (“*Li Yun*” in *Liji* or *The Classic of Rites*).

From the above passage, it is clear that the Confucian holds the view that we bear special responsibilities to those who are vulnerable. At least, our society should be organized in such the way that the elderly are provided with sufficient food and other necessary things, and children means of growing up, that women have their home, and that widows, orphans, childless men, and the disable are all sufficiently maintained. Why does the Confucian think that we have such responsibilities to the vulnerable groups in society?

For the Confucian, such responsibilities can be better explained in terms of the Confucian notion, *ren*, which is sometimes translated as humaneness or benevolence. In what follows, I shall explain what “*ren*” is meant for the Confucian and why the notion can help to explain a widely held intuition that we have the responsibility to help the vulnerable. To give a brief definition of “*ren*”, we could say a person of *ren* is a

person who is capable of a «graduated» love «beginning with one's family members and extending by degree out into one's society». In Mencius, there is a saying that expresses an understanding of *ren* which the above definition attempts to capture. «Mencius said, "In regard to living creatures, a gentleman is sparing with them but not benevolent towards them. In regard to people, he is benevolent towards them but not affectionate to them. He is affectionate to his parents and merely benevolent towards people. He is benevolent towards people and merely sparing with creatures"» (Book VII Part A, 45).

For Confucianism, *ren* is both the supreme virtue and «total virtue». It is the «total virtue» in the sense that it includes all other more specific virtues or values such as earnestness and generosity. In *The Analects*, there are passages which attempt to explain *ren*. «Whoever is able to put five things into practice throughout the whole world is certainly *ren*. These are earnestness, consideration for others, trustworthiness, diligence, and generosity» (The Analects 7:6).

This is a natural or logical consequence of taking *ren* to be the capability of a «graduated» love «beginning with one's family members and extending by degree out into one's society». It is because extending such a graduated love out into other human relationships requires one acting appropriately toward others in various kinds of human situations. And doing so requires one to cultivate in oneself different kinds of specific virtue.

In this connection, it is worth noting that whenever Confucius wanted to clarify *ren*, he often returned to the ethical values that concern individual relationships: filial piety, fraternal duty, loyalty, and sincerity. These ethical values match the concrete personal relationships such as those between fathers and sons, between older and younger brothers, and among friends. In *The Analects*, it is written, «The exemplary person devotes his efforts to the fundamental, for once the fundamental is established, the Way will grow therefrom. Filial piety and fraternal respect

– are they not the fundamental of a person?» (*The Analects* 1:2).

Virtues connected with friendship such as loyalty and sincerity are therefore the logical consequences of *ren*. As Confucius said, «When acting on another's behalf, shouldn't you always be loyal? When dealing with friends, shouldn't you always be sincere? ... Make loyalty and sincerity your first principles» (*The Analects* 1:3 and 1:8).

«A young man, when at home, should be filial, and when out in the world should be respectful to his elders. He should be earnest and truthful. He should overflow with love, and cultivate the friendship of the good» (*The Analects* 1:6).

Thus, for the Confucian, *ren* is the supreme virtue which one should cultivate in oneself, and to fully develop *ren* requires cultivating the specific virtues in her. It is because of a person possessing this supreme virtue that makes her able to respond appropriately in different social relationships. It is also this same virtue that gives one moral ground for saying that we ought to help the vulnerable people, near or far. The virtue of *ren* requires us to extend our graduated love out into other human relationships, including our relationship to the vulnerable.

IV. The moral position of the Confucian perspective on our responsibilities to the vulnerable groups in the context of health care

In the above section, we have showed that it is the moral position of the Confucian perspective that we do have special responsibilities toward the vulnerable. We also, by invoking the Confucian of *ren*, have explained why the Confucian think that we have such responsibilities. However, what exactly are those responsibilities? For the Confucian, the responsibilities in question must be context dependent. They vary from context to context. It is because for the Confucian, the responsibilities in question cannot be specified in terms of a set of concrete rules. They are to be determined in terms of the judgements of a person of *ren*

according to contexts, assuming that her judgements are well-informed⁶. Thus, for the Confucian, our moral responsibilities are always moral responsibilities in a certain context. In what follows, I shall discuss the moral position of the Confucian perspective on our moral responsibilities to the vulnerable groups in the context of health care. My discussion, however, will reference to the Universal Declaration on Bioethics and Human Rights adopted by the General Conference of UNESCO in 2005.

1. *Protecting the vulnerable*

In October 2005, the General Conference of UNESCO adopted by acclamation the Universal Declaration on Bioethics and Human Rights. Article 8 says: «In applying and advancing scientific knowledge, medical practice and associated technologies, human vulnerability should be taken into account. Individuals and groups of special vulnerability should be protected and the personal integrity of such individuals respected».

The Confucian would echo the above article that in applying and advancing scientific knowledge, medical practice and associated technologies, we have the responsibilities to protect individuals and groups of special vulnerability and respect their personal integrity, although on different ground. For the Confucian, we have those responsibilities not because those individuals and groups of special vulnerability have a certain right⁷. We have the responsibilities in question because that is required by *ren*. The virtue of *ren* requires us to extend our love to others' elderly and children and show kindness and compassion to widows, orphans, childless men, and those who were disabled by disease. And only when we fully develop the virtue of *ren* in ourselves, we know exactly what we should do in order to protect the vulnerable individuals and groups in the context of applying and advancing scientific knowledge, medical practice and associated technologies. Special attention, however, should be paid, in par-

ticular, to children, the mentally disable and the elderly with severe illness such as dementia. It is because individuals of these groups lack the capability of protecting themselves from injury and making right decisions for themselves.

Accordingly, the Confucian would also echo Article 7 entitled "Persons without the capacity to consent" that special protection should be given to those who do not have the capacity to consent, in our case, to children, the mentally disable and the elderly with severe illness such as dementia. As have been said above, exactly what to do with regard to the protection of the vulnerable groups depends on the judgements of persons who fully develop their virtue of *ren* in the relevant context. But the Confucian probably would endorse the principles implicit in the clause b) of the article that «research should only be carried out for his or her direct health benefit, subject to the authorization and the protective conditions prescribed by law, and if there is no research alternative of comparable effectiveness with research participants able to consent», and that «research which does not have potential direct health benefit should only be undertaken by way of exception, with the utmost restraint, exposing the person only to a minimal risk and minimal burden and if the research is expected to contribute to the health benefit of other persons in the same category».

2. *Against social discrimination*

In Article 11, entitled "Non-discrimination and non-stigmatization", of the Universal Declaration on Bioethics and Human Rights, it states: «No individual or group should be discriminated against or stigmatized on any grounds, in violation of human dignity, human rights and fundamental freedoms».

As we have seen above, the Confucian holds the moral vision of a good society that our society should be organized in such the way that the elderly are provided with sufficient

food and other necessary things, and children means of growing up, that women have their home, and that widows, orphans, childless men, and the disable are all sufficiently maintained. And such a moral vision is grounded on the fundamental moral precept of *ren*, the supreme Confucian virtue which requires us to extend our love to others' elderly and children and show kindness and compassion to widows, orphans, childless men, and those who were disabled by disease. Thus, a true Confucian would endorse the spirit of the above article that no individual or group, in particular, the vulnerable individuals and groups, should be discriminated against or stigmatized.

Accordingly, the Confucian would echo the Article 14 that «the promotion of health and social development for their people is a central purpose of governments that all sectors of society share». The Confucian would also echo the moral principle implicit in the clause 2 of the article that every human being, without distinction of race, religion, political belief, economic or social condition, should have the opportunity to enjoy the highest attainable standard of health.

3. Go beyond justice

The Universal Declaration on Bioethics and Human Rights states the following as one of the aims of the Declaration: «to promote equitable access to medical, scientific and technological developments as well as the greatest possible flow and the rapid sharing of knowledge concerning those developments and the sharing of benefits, with particular attention to the needs of developing countries». And in Article 10 entitled “Equality, justice and equity”, it states: «The fundamental equality of all human beings in dignity and rights is to be respected so that they are treated justly and equitably».

The Confucian would endorse the moral

vision of the Declaration that all human beings, including those who are vulnerable, should be treated justly and equitably, and that we should promote equitable access to medical, scientific and technological developments, depending on how «being treated justly and equitably» and «equitable access» are to be understood. For the liberal such as John Rawls, to treat individuals «justly» and «equitably» is to treat them in the way that the fulfillment of their needs is achieved by the institutions of the basic structure in ways the principles of justice specify as fair: «Given the political conception of citizens, primary goods specify what their needs are... the specification of these needs is a construct worked out from within a political conception... what is really important in

questions of justice is the fulfillment of citizens' needs by the institutions of the basic structure in ways the principles of justice, acknowledged by an overlapping consensus,

The Confucian perspective includes as primary aim the necessity of the health promotion

specify as fair»⁸.

However, the question is how to apply the above Rawlsian idea of justice to the vulnerable groups such as children and the mentally disable. The problem is: the mentally disable are not, and children are not yet, normal and fully cooperating members of society, and therefore cannot satisfy the political conception of the person presupposed by the political conception of justice. According to Rawls, the political conception of the person requires that persons possess, to the requisite degree, the two powers of moral personality, namely, the capacity for a sense of justice and the capacity for a conception of the good. «Persons were regarded as free and equal persons in virtue of their possessing to the requisite degree the two powers of moral personality, namely, the capacity for a sense of justice and the capacity for a conception of the good. These two powers we associated with the two main elements of the idea of cooperation, the idea of the fair terms of cooperation, and the idea

of each participant's rational advantage, or good»⁹.

It is obvious that children and the mentally disable do not possess the two powers in question. Thus, these two groups of vulnerable people are outside the sphere of justice understood in the Rawlsian terms. Now the remaining question is: how to explain the fact that most of us think that the society has moral responsibilities to ensure that the basic needs, including health care, of the two vulnerable groups are to be satisfied? To answer this question requires that our moral thinking goes beyond justice, or the Rawlsian conception of justice. For the Confucian, instead of invoking the idea of justice, the above moral intuition can be better explained in terms of idea of *ren*, a moral capability of extending our graduated love to others.

NOTE

¹ This Article is the Relation presented at the Conference on Human Vulnerability held at the Pontifical Athenaeum Regina Apostolorum, Rome, October 9-11, 2011. The Author is the Representative of the Confucianism.

¹ R. E. GOODIN, *Protecting the Vulnerable: A Reanalysis of Our Social Responsibilities*, The University of Chicago Press, Chicago 1985, 110.

² A. SEN, «The Standard of Living», in A. SEN, J. MUELLBAUER, R. KANBUR, K. HART and B. WILLIAMS (ed.), *The Standard of Living: The Tanner Lectures on Human Values*, Cambridge University Press, Cambridge 2000, 36.

³ ID., *Inequality Reexamined*, Harvard University Press, Cambridge MA 2002, 40; ID., *Development as Freedom*, Knopf, New York 1999, 75; ID., «Elements of a Theory of Human Rights», *Philosophy and Public Affairs*, 32/ 4 (2004), 332-8.

⁴ Defining "vulnerability" in terms of a list of capabilities essential to the normal functioning of a person is not without problem. For people may have

disputes about what functions are to be regarded as normal and which capabilities as essential to those functions. The disputes, however, cannot be easily settled in this short essay. On my view, what counts as "functioning normally" for a human adult and what capabilities are counted as essential to that normal functioning depend very much on the theory of the good one holds. In that case, the notion of vulnerability is a theory-laden concept. And any adequate treatment of moral issues in relation to human vulnerability must be conducted from a certain ethical perspective.

⁵ M. C. NUSSBAUM, *Women and Human Development: The Capabilities Approach*, The Cambridge University Press, Cambridge 2000, 1.

⁶ It is the central idea of virtue ethics that rules cannot fully capture the complexities of the moral reality and, thereby, our moral responsibilities, and only when one become a virtuous person, she is able to grasp those complexities and know her moral responsibilities to others.

⁷ For the Confucian, individual rights can never be the ground of morality. I have argued for this conclusion on many occasions. In brief, the notion of individual rights requires a social structure in which a sharp distinction between individuals exists and individuals are treated as equal. However, it is exactly such a sharp distinction between individuals and equality among individuals that is absent in the social structure which aims to develop people's *ren*. In a society with that social structure, how a person should be treated depends, though not entirely, on her relations to others. Equality, then, is relatively unimportant in the moral and social life of that society. Only against a social background which accords the state a distributive function, equality could have an important role to play. Lacking such a social background, it would be meaningless to talk about equality unless what is being talked about is formal equality. However, in the traditional Chinese society, the state was not accorded such a distributive function. And only when we understand this, we are able to understand why Mencius said: «That things are unequal is part of nature... If you reduce them to the same level, it will only bring confusion to the empire» (*Mencius*, 1984, 3A:4).

⁸ J. RAWLS, *Political Liberalism*, Columbia University Press, New York 1993, 188.

⁹ *Ibid.*, 34.