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Lecture and Colloquium in Münster 2000



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Preface

Martha C. Nussbaum is one of the most well-known and influential philosophers of our time. Her wide-ranging work in practical philosophy includes insightful interpretations of classical ethics and numerous contributions to systematic problems of contemporary ethics and political philosophy. Also a scholar of literature, Nussbaum brings out the ethical dimensions of literary texts to complement and support her philosophical reflections. At the forefront of her examinations of classical writing is the constant reference to a question that is as important as it is current – namely the question of the good life. Nussbaum explains not only what a good life is based on, but also how it is realized and practiced, as well as what role political and social boundary-drawing conditions can play. In the current debate over an ethics of the good life, Nussbaum's "Capabilities Approach" is an extremely important position, and represents one of her outstanding and ground-breaking contributions.

This book is the result of the 4th Münster Lectures in Philosophy. We are very pleased that Martha C. Nussbaum was willing to discuss her philosophy with us. On the 29th of May 2000 Professor Nussbaum gave a public lecture; the next day a colloquium took place, where papers were presented with questions about Nussbaum's current theories, followed by responses from Professor Nussbaum. The lecture is one of Nussbaum's current contributions to political philosophy. In referring to other areas of her recent work the papers broadened the scope of the discussion. The papers contain, in addition to inquiries in political philosophy, also inquiries into systematic problems of ethics, into the relation of literature and ethics, and into Nussbaum's position in the feminism debate. We were extraordinarily pleased that Professor Nussbaum gave us detailed responses to all of the questions. The volume contains Nussbaum's lecture, revised versions of the colloquium papers and Nussbaum's written responses to them.

First, sincere thanks go to Professor Nussbaum. I would like to thank Professor Nussbaum for her attendance at the Münster conference, for her lecture, for her participation in the colloquium and for putting her responses in writing. It was an enormously enriching experience for us to have an opportunity in our department not only to discuss Martha C. Nussbaum's work among ourselves, but also to actually discuss the work with the philosopher herself. Secondly, I want to thank Marcus Wilaschek for initiating the Münster Lectures in Philosophy in 1997 and for continuing to manage the funding side. The majority of the funding for the

2000 Lecture was provided by the Fritz-Thyssen-Stiftung and the University of Münster. Thanks are also due to Blackwell Publishers for giving the permission to print the article on Cicero's legacy and the LIT-Verlag for covering the publishing costs for this volume. Further I want to thank the participants in the working groups who prepared for the colloquium with such intensity. Finally I want to thank several students. Special thanks are due to Dean Moyar for helping to translate and revise the papers, and to Bert Demtröder for helping to put this volume into print.

Münster, June 2001

Angela Kallhoff

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Part I
The Lecture

Liberal Communities: Why Political Liberalism Needs a Principle of Unification

Angela Kallhoff, Judith Schlick

The Liberal and Communitarian Traditions

In Martha Nussbaum's recent work various liberal elements, such as "personhood, autonomy, rights, dignity, [and] self-respect,"¹ can be made out. These conceptual elements are part of her larger endeavor to establish the individual as "the basic unit for political thought,"² an endeavor characteristic of the tradition of liberalism. Underlying her liberal conception of political philosophy is what she calls an understanding of "each person as an end," what we here call the "principle of separateness."

Nussbaum defends the liberal elements of this conception against communitarian arguments. She argues that in thinking not of the individual, but rather of the community as the basic unit for political philosophy, the communitarian tradition does not possess enough resources with which to protect the rights of the individual. This critique holds insofar as, in such a conception, equality between groups may be warranted, while the just treatment of each member within a group is not yet guaranteed.

In "The Feminist Critique of Liberalism,"³ a chapter of her *Sex and Social Justice*, Nussbaum carries through the argument that feminists in particular would benefit more by advocating liberal principles than by siding with communitarian ones. This may come as a surprise to those who have been following Nussbaum's thought throughout the past years. They would have been strongly inclined to understand the title of that chapter as a full-fledged attack on liberalism from a communitarian standpoint. Instead, Nussbaum as a feminist decides to side with the liberals on this matter. She acknowledges this radical turn by stating that "liberal individualism, consistently followed through, entails a radical feminist program."⁴ It may seem that she now shows interest in liberalism and feminism alone, consistently and radically. But what ever happened to the communitarian principles that so strongly characterized her earlier work?

¹ Nussbaum (1999), p. 56.

² *Ibid.*, p. 59.

³ *Ibid.*, pp. 55-80.

⁴ *Ibid.*, p. 67.

The Argument

In an attempt to deliver at least a partial understanding of the dynamics described above, we propose taking the following steps in our argument. First, we want to recount the main objections Nussbaum has had to liberalism earlier in her work, and to provide the main points of her later sympathy with liberalism. We intend thereby to concentrate on her discussion of Rawls's political philosophy. Second, we will explain which elements of her theory could be rendered in proximity to communitarian thought. But since she also does keep herself at a fair distance to communitarianism, we will attempt to explain in which respects communities nevertheless play an important role in Nussbaum's political thought. Third, we shall propose that something like a "principle of unification" is at work in Nussbaum's discussion of communities as "liberal communities." To underscore this argument we will finally present two examples out of Nussbaum's recent publication "Women and Human Development."⁵

1. Nussbaum and Rawls's Liberalism

During the early nineties Nussbaum raised three main objections to John Rawls's political philosophy, a prominent representative of the liberal tradition. These three objections are the following. First, she contends, "primary goods," as Rawls discusses them, need to be understood as the means for the realization of particular conceptions of the good. This means they cannot be taken as values or ends in themselves. But this entails that their role as the most basic goods the society or the social arrangements support can be questioned. What human beings urgently need are not some instrumental goods, but the real opportunity to develop basic capacities.⁶ Second, she argues, taking into account the concrete situation of the individual's life is absolutely relevant. Even if a theory of political institutions refers to a basic level of everybody's well-being, the differences between individuals' needs must not be neglected. Thirdly, she holds, by and large it does not suffice to define the good life primarily by resources in the wide sense, let alone solely by economic ones.

In her more recent work then, mid to late nineties, Nussbaum comes to defend a liberal position herself. As we have already stated, liberalism takes the individual to be the basic unit for political thought. It thereby empowers itself to take each individual's choice seriously, which is to say it takes into account the dignity of persons as individuals. Insofar as the question of justice for political philosophy should be a question of how

institutions can contribute to the realization of each and every person's good, the protection of the individual's choice becomes a main concern. Against this background it becomes clear why Nussbaum comes to discuss liberalism as "political liberalism."⁷

From this however it does not follow that she gives up the capabilities-approach. In the contrary, she establishes the capabilities as the very foundation of her political conception. Since the capabilities are sought for each and every person, the principle of each person as an end can be rephrased as a "principle of each person's capability."⁸ The basic functional capabilities can be taken as underpinnings of most basic political principles embodied in constitutional guarantees. Although the capabilities-list cannot be compared with Rawls's primary goods, they do assume a comparable function and are offered in the same "political-liberal spirit."⁹ Due to its respect for individual conceptions of the good life and its sensitivity to the most basic capabilities of human beings, liberalism indeed becomes an attractive position within political thought.

2. Communitarian Arguments in Nussbaum's Conception

By narrating Nussbaum's differences from and similarities to Rawls's conception of political philosophy, we hope to have indicated the multidimensionality of Nussbaum's own conception. We now want to turn to some aspects of her latest writings.

Despite the use of such strong words as "radical," "consistent," and "liberal," which may very well lead one to assume that communitarianism is done and over with for Nussbaum, we have observed that some communitarian elements have not disappeared at all from Nussbaum's work. They may have disappeared from the surface, but only to develop into a comprehensive framework, designed to function as a frame of reference for the liberal values within. We simply mean that Nussbaum does employ liberal values, albeit in a communitarian manner. Hence our title, "liberal communities," since the values of liberalism are understood only in the context of the liberal tradition: that is, in communities.

By referring to "communitarianism," we know well that we are entering a broad battle-field of different views. But since we are making a systematic point only, we will ignore the details of this debate. As Charles Taylor

⁵ Nussbaum (2000).

⁶ Cf. Nussbaum (1990), p. 227.

⁷ Nussbaum calls her liberalism "political liberalism" in contrast to "comprehensive liberalism." Cf. Nussbaum (1999), pp. 62-64, (2000), p. 14.

⁸ *Ibid.*, p. 74.

⁹ Her recent movement towards Rawls is also due to the recent development of Rawls's theory, e.g. his theory of "public reason". Cf. Nussbaum (1996), pp. 142-144.

argues, the reasoning of communitarians can be seen as dealing with an ontological issue as well as with an advocacy issue.¹⁰ The first one, the ontological issue, is concerned with "what you recognize as the factors you will invoke to account for social life."¹¹ If the alternatives are atomism versus holism, in this respect Nussbaum could definitely not be rendered in proximity to communitarians. But there also is the advocacy issue, which deals with the moral stance or policy one adopts. In one way or another all communitarians argue for the priority of the community life, insofar as a viable policy must be based on a common idea of the good life. This is what we mean in the following when speaking of "communitarianism."

There are three aspects in Nussbaum's theory that assign an important role to communities. For the moment we shall call them "communitarian arguments" in the explained sense. First, in accordance with the Aristotelian argument that "the good" has priority over "the right," she maintains that one cannot conceive of the right properly without having some conception of the good beforehand. Those groups which form the basis of social arrangements and to whom therefore principles of justice apply, are at least partly defined by a common idea of the good life or a common prospect, as for example the family. What is right in relation to those groups must at least be compatible with the goods defined within these groups. Second, there is no alternative to the development of a conception of the good together with others. Groups and communities remain the primary places where an initial idea of the good is formed and finally realized. Third, the feelings of care and love are, after all, realized in groups like the family. Moreover affiliation is one of the two architectonic, and thereby one of the most important, capabilities of persons. This capability must be located within communities.

3. Liberal Communities and the "Principle of Unification"

Though these arguments render Nussbaum's conception close to communitarian thought, there remain significant differences. Groups, for Nussbaum, do not necessarily have to be cultural units and thus are not necessarily to be imagined as having grown naturally or culturally. Therefore Nussbaum sometimes prefers the term "groups" to that of the community. Within such groups every person should be recognized as an end for herself. Furthermore, between these persons affiliation can at least partly be realized as a chosen affiliation. Nussbaum discusses these kinds of groups,

¹⁰ Taylor (1995).

¹¹ *Ibid.*, p. 181.

which can be unified by some common idea of the good life, e.g. self-help groups, especially in her more recent work. These groups are able to cross boundaries, especially national boundaries, as feminism demonstrates. We want to underscore this last point, for while the idea of globalization is omnipresent in political thought, it still poses a problem for a political philosophy that remains focused on the unit of a culture or a nation.

In our opinion communities and groups described in this manner could be called "liberal communities," because the liberal principle of treating each person as an end is present in these groups.¹² But this liberal principle also has a counterpart in Nussbaum's theory, which mirrors the importance of the constitution of groups. We call this "the principle of unification." These two principles can be seen to correspond to the two architectonic capabilities: Practical reason, as Aristotle understood it, involving both the capability to develop an individual conception of the good life, and the capability of affiliation.

In our opinion Nussbaum's liberalism is not strictly liberal in the classical sense of the word. There still are communitarian principles at work. But rather than discrediting her liberalism, these principles carry the potential of her approach. We would like to suggest that Nussbaum's theory, by incorporating liberal and communitarian principles, may be able to resolve some problems that liberalism and communitarianism on their own are still struggling with. In order for us to discuss the potential of such an approach, we would like to offer two examples from her recent work on political philosophy which illustrate our point.

Examples

A first example to support our thesis that Nussbaum's theory implies a "principle of unification" is her discussion of the family. Nussbaum's position in relation to Rawls's theory of the family is more sophisticated and more complicated, so we only want to concentrate on two aspects.¹³ For her, as for Rawls, the family is part of the basic structure of society. As opposed to Rawls, she sees the family as being at least in part a social

¹² "In normative terms, this commitment to the recognition of individual separateness means, for the liberal, that the demands of a collectivity or a relation should not as such be made the basic goal of politics: collectivities, such as the state and even the family, are composed of individuals, who never do fuse, who always continue to have their separate brains and voices and stomachs, however much they love one another." Nussbaum (1999), p. 62.

¹³ Cf. Nussbaum (2000), p. 270-283.

construct. Moreover, Rawls in his conception cannot guarantee justice to each member of the family, especially not to women as mothers. Thus, insofar as Nussbaum demands that the state respect the liberty of self-definition of each individual member of the family, her liberalism on this point is even more radical than that of Rawls. But then again Nussbaum also admits that the family raises a unique question, as it stands for love and care. We think by arguing solely for a more consequent liberalism, this tension can only partly be resolved. If the family were described as a liberal community with specific constraints (that is, as a legalized social arrangement), and were understood partly as a chosen form of unification, then the aspects of affiliation in its unique form within families could be integrated. So even here a "principle of unification" seems to be at work. It may be more limited than in the case of global justice though, due to the special role of minor children within the family.

In our second example the aim, according to Nussbaum, of political philosophy in questions of development is to give each individual the chance to realize in full a good life. But in general, the issue with the developing countries is seen to be a problem of international justice and thus understood to be primarily a problem of the redistribution of economic resources between nations.¹⁴ Although Nussbaum emphasizes the importance of fair distribution of resources, she is able to take it a step further. Liberal communities as defined above are neither limited by national boundaries, nor by cultural identities. If such groups that share a common vision of the good life and are able to articulate the most urgent needs for realizing the full set of capabilities do exist, then perhaps the claims of justice could be given more concreteness.¹⁵ And perhaps it is necessary to hear these claims, in order for a policy and for political principles, which are based on an unambiguous moral stand, to be viable. In a global world unification may be an effective method to articulate urgent needs and to create pressure within the international community. We believe that a conception of political philosophy which incorporates both liberal and communitarian principles allows us to reach a more comprehensive understanding of global justice.

¹⁴ Nussbaum nevertheless stresses the importance of economic redistribution between states. She also discusses the question, whether national governments or rather a transnational government could do this job better. She reminds us of many problems related to international justice and concludes that this question should be approached as a complex empirical question. Cf. Nussbaum (1998), pp. 282f.

¹⁵ Nussbaum also emphasizes that economic justice is one of the most important things for the developing countries.

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Nussbaum defends the liberal elements of this conception against communitarian arguments. She argues that in thinking not of the individual, but rather of the community as the basic unit for political philosophy, the communitarian tradition does not possess enough resources with which to protect the rights of the individual. This critique holds insofar as, in such a conception, equality between groups may be warranted, while the just treatment of each member within a group is not yet guaranteed.

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