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Review of *Sex and Social Justice* by Martha Nussbaum

Margaret Urban Walker

Marquette University, margaret.walker@marquette.edu

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Margaret Urban Walker was affiliated with Fordham University at the time of publication.

Book Review of *Sex & Social Justice*, by Martha C. Nussbaum

Margaret Urban Walker
Fordham University

Sex & Social Justice. By Martha C. Nussbaum. New York: Oxford University Press, 1999. Pp. 486. \$35.00.

This volume from Martha Nussbaum collects 15 essays written during the period 1990-97, 14 of them previously published but rewritten for this book, and one new piece. Followers of Nussbaum's recent work will find the matter of the opening essays familiar, as they reprise themes about sex equality and the welfare of women that she has taken up within the "human capabilities" ethical framework on display in two previous volumes Nussbaum co-edited with Amartya Sen (*The Quality of Life*, 1993) and with Jonathan Glover (*Women, Culture, and Development: A Study of Human Capabilities*, 1995), both studies prepared for the World Institute for Development Economics Research (WIDER) of the United Nations University. In the acknowledgments in the present volume, Nussbaum credits to her experience with WIDER between 1986 and 1993 "a new sense of empirical reality and of the historical and political complexity" of issues of justice (viii).

Some readers might yet be surprised by some features of this project: John Stuart Mill looms larger here than Aristotle, and the neo-Kantian flavor is strong. The framing concepts here are liberal staples of dignity, equal worth, and liberty. The book takes up its topic, not simply in the spirit of liberalism, but in the spirit of a liberal rationalism whose message is not only that rationally gifted beings are and must be self-disposing over a wide extent of their private and public lives (Mille an non-interference) but also that a life itself should be "organized by critical reasoning" (Stoicism *via* Kant) (10). Moreover, in the battle for human dignity, Nussbaum holds, "if we fight with any weapon other than rational argument, we will have given our adversaries the greatest victory that they could possibly win, that of debasing our humanity" (331). The author also describes the approach as feminist in a way that is internationalist, humanist, liberal, concerned with the social shaping of preference and desire, and with sympathetic understanding (6-14). While fineness of perception of particular human beings and richness of response to their minutely perceived situations is a signature theme for Nussbaum, the last concern here takes a back seat to a set of analytical exercises and strongly framed arguments for liberty and dignity unsullied by irrational prejudice related to matters of "sex."

The subject "sex" comprehends a broad territory here, including: biological sex and the norms of gender it attracts in every culture; sexuality; sexual behavior and sexual desire; sexual objectification; paid sex work; same-sex relations now and in the ancient Greek world. In an essay that provides an admirably clear introduction to the idea of the "social construction" of feelings, she views the "sexual domain" of human life as one of "symbolic cultural interpretation, shaped by historical and institutional forces, though within constraints imposed by biology," so that "cultural formations affect not just the theoretical explanation of desire but the very experience of desire, and of oneself as a desiring agent" (56). This, Nussbaum says, does not foreclose rational debate or lead to relativism; instead, it "opens up a space for normative argument, political criticism, and reasoned change" (56). Topically, the essays address the situations of women generally and of lesbians and gay men because "human dignity is frequently violated on grounds of sex

or sexuality" (5). The essays repeatedly put the question: What kinds of moral, legal, and political treatment respect the dignity of human beings when sex is, in any of these ways, at issue? The answers are for the most part as you might expect in a liberal feminist view—generally, complete legal and social equality for women and those not heterosexual, strong objections to religious restrictions on women's legal and civic status and to traditional practices of non-trivial genital cutting. But there are valuable additions, such as an effective discussion of how problematic categories for "sexual orientation" really are, and some surprises, such as a mitigated (and somewhat class-bound) defense of prostitution.

For those used to the literary and dramatic prose of some of Nussbaum's other work, this volume will read on the whole as a tract and locally as a series of briefs. This seems to be the author's purpose, and it is a strength of the book. This work is devoted to the "urgent" need for "moral stand taking" (31). At its best, it is instructive and seems clearly intended to instruct as it persuades. It instructs by "making cases" in a stepwise, conceptually crafted, and sequentially argued way, often buttressed by empirical research. For this reason the tone is largely didactic or forensic. While those steeped in literatures of feminism or gay and lesbian studies will find some of these discussions (or some parts of them) at the level of a primer, they might enjoy seeing familiar points rehearsed without obtrusive and excluding jargon and seeing the liberal cases put in aggressively linear form. These essays could make good instruction pieces for students as well, teaching the virtues of clear statement and argument while defending worthy and humane points about social inclusion and fairness.

At the same time, this didactic form has the vices of its virtues. At 373 text pages, the lesson goes on for a long time, and the instructor is often peremptory in defining the subject. Nussbaum does not hesitate to tell "feminism" what to be and do, while it would be more gracious *and* critically productive to engage in more breadth and depth with a varied and sophisticated literature now several decades along (notes for chapter 2 include references amounting to a very brief syllabus). This more sustained conversation might move Nussbaum to reconsider her claim that "wherever you most mistrust habit, there

you have the most need for reason" (79). Mature feminist criticism has repeatedly shown that reason is most needed where one *trusts* habit, including habits of using philosophical vocabularies like that of liberalism. Contrary to her account of it, liberal theory was not produced by ignoring (10) or failing to notice (64) that women were not comprehended in theory, or by failing to follow their thought to its conclusion (65). It carefully constructed a view of political life in which women had a quite determinate, indeed ineliminable, structural role that involved their socially normed sUbsumption by men. More untrusting critical scrutiny is required to assess how thoroughly we are freed from this subsumptive and exclusive universalism of Enlightenment thought, with its logic of qualification (usually in terms of "rationality") for equality and its entitlements. For Nussbaum's purposes, the use of this vocabulary needs to be thought through in relation to the capabilities approach.

Nussbaum reiterates her foundational view that an "account of the central human capacities and functions, and of the basic human needs and rights, can be given in a fully universal manner, at least at a high level of generality, and ... this universal account is what should guide feminist thought and planning" (8). But two issues remain elided here. Even the strongest argument for a universally recognized set of capabilities that are characteristically human will not support robustly normative claims that these capabilities should or must be supported equally or in the same ways or in the same people to the same degree and to the same ends. Even as she acknowledges that the position on capabilities is "evaluative from the start," Nussbaum minimizes the nature of the gap between those already on board the "specifically political consensus" (40) which she advocates and those who are not. It is often the very agreement that some kinds of human functioning (sexuality, emotion, practical thought) are truly fundamental and central that has made disagreement about their proper role in human lives, or their proper distribution in human communities, so charged and often so intractable. It seems that Nussbaum herself is implicitly conceding this as she annexes appeals to dignity and rights that do not arise out of but provide one kind of normative engine for driving an ethics whose content is capabilities.

This big book is swelled by several pieces it did not need. An essay on "Equity and Mercy" is an interesting reflection on justice but makes little contact with the topic of the book; a review of Andrea Dworkin is repetitive following a searching general essay on sexual objectification, and one of Richard Posner adds little to the book's arguments; an encomium to Sir Kenneth Dover, to whom the book is dedicated, is out of place; and a concluding piece on Virginia Woolf and our knowledge of other people is lovely but related only in the most oblique way to the matters under discussion. Some of these 70 pages might have been devoted to trim and forceful closing arguments in keeping with both the overall style and the aim. Readers will find more than enough here to test their logical wits, moral sympathies, and political convictions where "sex" is at issue.