

INTRODUCTION: THE VULNERABILITY CHALLENGE

Lucia Re¹

Abstract: The essay presents a discussion of vulnerability theory from a philosophical and a sociological perspective. The success of this new paradigm in the social sciences and even in the public discourse appears justified by the need to rethink the institutions and social ties of late modernity, also from a gender perspective. It is undoubtedly a fascinating prospect, but one that conceals numerous pitfalls. In particular, ideas of agency, conflict, emancipation and solidarity, which are closely connected with fundamental rights theory and the development of constitutionalism may lose importance. The vulnerability paradigm, rather than eclipsing the language of rights, could then be used to interpret these rights, to define them with increasing accuracy and reinforce their effectiveness. In particular, the bottom-up construction of an emancipatory notion of vulnerability may well lead to an auspicious update of the interpretation of the principles of dignity, equality and solidarity, principles that nevertheless still appear today as indispensable.

Keywords: vulnerability, security, feminism.

The relationship between strength, power and law is one of the major problems of Western political and juridical philosophy. In particular, much of modern political and juridical debate deals with the role of institutions in ensuring security. In his *Rassurer et protéger. Le sentiment de sécurité dans l'Occident d'autrefois*, Jean Delumeau (1989) states that in many European languages there came into being, between the fifteenth and seventeenth centuries, a neologism derived from the Latin *securitas*, which expressed the concept of security. In Italian the word *sicurezza* emerged during the Renaissance in place of the older *sicurtà*, while in Spanish the term *seguridad* replaced the previous *segurança*. In the same period, in English, in addition to *safety* there emerged the word *security*. Lastly, in French, during the seventeenth century, the term *sécurité* took its place beside *sureté*. This linguistic change was indicative of a cultural change. It signaled the emergence of a new way of thinking, which had to do with the role of the community in ensuring security. The need to conceive of security in new terms was linked to a new dimension of individual freedom. As Zygmunt Bauman (1999) has shown, turning on its head the analysis Freud made in *Das Unbehagen in*

¹ Prof. University of Florence, Italy. Email: lucia.re@unifi.it.

der Kultur (1930), exercising individual freedom implies taking risks².

For Delumeau, the modern notion of security has theological roots: in the Christian view, the believer finds refuge in God, but at the same time he must remain troubled, since faith implies an ongoing spiritual quest³. This ambivalent feature of security is also reflected in the secular vision of Renaissance man. For Machiavelli, as for Shakespeare, man must tempt fate, in defiance of his need for security⁴, while the task of guaranteeing the protection of individuals and the community is left up to institutions. *Securitas* is the purpose of “good government” and is the basis – we think of Machiavelli’s *Discourses on Livy* (1531) – of the birth of the city. The same paradigm is found in the social contract tradition, even in the Hobbesian vision. For Hobbes (1651), the sovereign State, which has a monopoly on legitimate force, strikes terror in its subjects in order to protect them from the anomic violence that characterizes the state of nature. Freedom would thus seem to be definitively sacrificed

on the altar of security. As we know, Hobbes nevertheless exploited the literary fiction of placing in a remote era the acquisitive passions, competition and violence typical of the modern political entity that struggles for self-assertion (see Bobbio, 1989)⁵.

In Hobbes’s construction it is the Leviathan that, from above, imposes rational behavior on its subjects, turning them into political and legal subjects capable of acting within the social contract. For other contractarian authors – from Grotius to Locke and Rousseau – it is individuals themselves who, by exercising rationality as a function of self-preservation, manage to control their violent impulses and accept the power of the State (see Santoro, 1999: 202-203). In this vision, on which, as we know, modern liberal thought is founded, the political and legal subject, represented by a “hierarchical-dualistic” model (*Ibid.*) as an “I” that can control its passions through the use of reason (see Pulcini, 2001), it makes a regulated use of freedom and appears able to manage risk by an

² For Freud, human beings are willing to give up a part of their freedom in exchange for security. Bauman argues that the increase in the post-modern era of individual freedom has led many to accept uncertainty, at the expense of a sense of security. However, I think we can say, as I will explain in more detail later, that in modern age the building of public security nets has gone hand in hand with the expansion of individual freedom. Freud’s and Bauman’s analyses are therefore not antithetical. As Tamar Pitch (2006) has emphasized, what has changed over time, rather than the propensity of individuals to take risks, is the willingness of public institutions to guarantee security (see also Re, 2010).

³ This dual dimension of the Christian faith is put forward explicitly in Pascal’s works.

⁴ Delumeau cites apropos of this Act 3 of *Macbeth*, where Shakespeare has Hecate say that “security is mortals’ chiefest enemy.”

⁵ Here we can only refer briefly to the classics of modern political thought, with the inevitable effect of greatly simplifying our interpretation. For a particularly interesting reading of *Leviathan* for the purposes of the argument developed in this book, see Cavarero, 2013, ch. 7 and Guaraldo, 2012, ch. 3.

alternation of bold and cautious behavior, within a social contract that has transferred to the State the task of ensuring security, in the first place thanks to “legal immunization” (Esposito, 2002). With due distinctions, it may, therefore, be said that the experience of individual vulnerability – in its etymological meaning as “exposure to injury” – founded the major modern philosophical visions of political order, but it remains in the background, in latency. Within the social contract, vulnerability could thus be associated with a condition of fragility, weakness and deficiency proper to dependent subjects incapable of self-government and therefore expelled from the public space. These are subjects who are seen as “weak” and “inferior,” namely – in different historical periods – women, children, the insane, the poor, prisoners, the colonized, slaves, homosexuals, the disabled, the elderly, etc.

As Adriana Cavarero (2013) has shown, this philosophical tradition, moving from an individualistic ontology that draws an “I” guided by *recta voluntas*, is anchored to a precise geometry of verticality. It was countered, in the history of philosophy, by a

relational ontology, which has its corresponding geometry in the inclination of a subject obliquely “bending over the other,” according to the archetypal image of the Madonna and child handed down by the Marian tradition: a “maternal subject” who bends over the other, especially over the helpless, aware of being immersed “in a continuous web of plural and singular dependencies” ⁶(*ibid*: 24). This subject, conscious of its own and others’ vulnerability, has often been identified with femininity and was relegated to the margins of philosophical, juridical and political discourse⁷. During the twentieth century, the feminist movement brought this subject to light through its intense job of excavating the genealogies and experiences of women (see Diotima, 1987), at intervals allying and clashing with psychoanalysis as the recognized “discoverer” of the unconscious and the complexity of the emotions⁸. The reflection on vulnerability, which – as Alessandra Gropi shows in her essay published in this volume⁹ – has involved the entire history of philosophy, produced, in the second half of the twentieth century, especially fruitful results.

⁶ “in un intreccio continuo di dipendenze plurime e singolari”.

⁷ While in Marian iconography the leaning of the mother toward her child was often shadowed by the monumentality of the sacred (cf. Cavarero, 2013: 137) or served to celebrate the dedication of mothers to their male children sons as the privileged recipients of their care, what remained even more in shadow in Western culture was the image of the mother-daughter

relationship, constantly removed from patriarchal culture (see Luce Irigaray, 1974).

⁸ For an interesting analysis of the role of feminism and psychoanalysis in constructing the contemporary subject, see Tommasi, 2016.

⁹ Gropi offers an interpretation of the Sophocles’ *Philoctetes* inspired by contemporary feminist literature, in which she places at the center of her analysis the idea of vulnerability.

Feminist thought, which has reinterpreted subjectivity in the light of psychoanalytic theories – attempting to correct its patriarchal stamp¹⁰ – has referred to the work of philosophers of Jewish origin, in particular Emmanuel Levinas, Simone Weil and Hannah Arendt¹¹. The joining of these lines of interpretation is not accidental but due to a reflection on violence against the unarmed and defenseless, which, far from being the product of abstract theorizing, is dictated by the urgency of actual experience¹².

If, as Sandra Rossetti claims in her essay published here, it is possible to identify a “Jewish line” of thought on vulnerability, it is not only because this theme runs through the biblical and Talmudic tradition, but because the need to reflect on vulnerability became urgent in the mid-twentieth century by the dramatic events of the persecution of Jews in Europe and the Holocaust, as well as by the unprecedented carnage of the Second World war. It was therefore from that moment in history that ethical reflection gradually

concentrated on the issue of vulnerability, understood primarily as an ontological datum. Levinas, Weil and Arendt shifted the focus from the “egocentric” subject of the modern European philosophical tradition to a subject that is constructed in relation to the “other,” “exposed to the other” and, at the same time, “impinged upon” by the other.¹³

Likewise, the experience of physical, psychological and epistemic violence has stimulated much of “the second wave” of feminist thought¹⁴: “Take your foot off our necks!” was for Catharine MacKinnon (1987) the cry that gave birth to consciousness-raising groups. Moving from the deconstruction of the subject of philosophy and modern law, in the name of the affirmation of “sexual difference,” feminist thought came to criticize the myth of autonomy and insisted on the importance of caring relationships (see Gilligan, 1982) and on the hidden constraints of dependency in the contractarian paradigm of democratic citizenship (see Pateman, 1988), emphasizing the subject’s interrelated nature (see Pulcini,

¹⁰ See for example the works of Luce Irigaray, Nancy Chodorow and Judith Butler.

¹¹ For an analysis of vulnerability in the history of philosophy, see Tommasi, 2016.

¹² See on this topic Hannah Arendt, 1970, especially Chapter 1.

¹³ On Lévinas’s thought in this regard see both the analyses of Judith Butler (2005; 2015) and the criticism of Adriana Cavarero (2013: 183-240). On Weil, see Tommasi, 1993 e 1997.

¹⁴ As we know, the history of feminism is often represented as a succession of three “waves”: the first by the so-called “feminism of equality,” which demanded

for equal rights for women and men; the second the “feminism of difference” and the “radical feminism” of the 1970’s and 1980’s, both of which denounced the epistemic violence of patriarchy (while the “feminism of difference” supported the need to rediscover the value of “female difference,” “radical feminism” shed light on the existence of a male domain, based on a systematic oppression of women by men); and the third and current “post-feminist” and “neo-feminist” movements, very different from each other but united by their intention to deconstruct both male and female gender identity. For an introduction to feminist philosophies, see. Cavarero and Restaino, 2002. See also Loretoni, 2014.

2001; 2009). Some feminist authors, finally, have developed a conception of vulnerability as having a universal nature.

In this regard, the theoretical path of Martha Albertson Fineman is emblematic among the major American women philosophers of contemporary law; prompted by the feminist criticism of the theory of modern law (Fineman and Sweet Thomadsen (eds.), 1991), she denounced the mythological character of the construction of the idea of autonomy in Anglo-American culture and law (Fineman, 2004), to arrive at a theory of universal vulnerability as a basis for a review of the principle of equality and institutional action (Fineman (ed.), 2013)¹⁵. We publish here Fineman’s essay “The Vulnerable Subject and the Responsive State,” which aims at identifying the responsiveness that State institutions should provide in order to care for the vulnerability of citizens, understood both as an ontological datum and as a socially constructed datum¹⁶.

The reflection on vulnerability is certainly indebted to the essay of another American author, Eva Feder Kittay (see in particular 1999), who made the transition from an ethic of care in part celebrative of female

self-abnegation¹⁷ to a political reflection on care work – mainly entrusted to women – as a foundation absent from decent social functioning. We publish here Kittay’s essay “Dependency,” in which she moves from an analysis of both “inevitable dependence,” which unites all, and the particular circumstances of dependency, such as those of people with disabilities, to propose that institutions consider the management of dependency as a priority goal, to be achieved instead of the traditional liberal goal of “individual independence.” In this volume Maria Giulia Bernardini also questions the relationship between vulnerability and law, with particular reference to disabled people.

In the twenty-first century, reflection on vulnerability has received new momentum, thanks again to feminist thinkers such as Judith Butler and Adriana Cavarero, who, by undertaking one of the most interesting dialogues of contemporary philosophy, have also questioned the role of violence, especially starting with 9/11 and the horizon of “global war” that this event ushered in¹⁸. This theme has also been developed by Elena Pulcini, both in *La cura del mondo* (2009) and in her essay published in this volume. Pulcini, in direct

¹⁵ See the interview in which she outlines her intellectual development: Wegerstad and Selberg, 2011.

¹⁶ I will return later to this distinction.

¹⁷ For a critique of this stance, MacKinnon, 1987: Chapter 2. I’ve discussed MacKinnon’s criticism of Carol Gilligan in Re, 2015.

¹⁸ See especially Butler, 2004 and 2009, and Cavarero, 2007. For a comparison of these two philosophers, see Bernini and Guaraldo (eds.), 2009.

dialogue with Butler and Cavarero, broadens the reflection on vulnerability, addressing the themes of “difference” and “contamination” in our contemporary “risk society.”

Valeria Marzocco’s essay in this volume deals with the way in which the notion of vulnerability is used in late twentieth-century reflections on risk developed in the social sciences. It is a critical reflection, which indicates how the concepts of vulnerability and resilience¹⁹ could be utilized in neoliberal governance strategies, associated with a post-modern anthropological model, in which the subject’s area of freedom is strongly compressed. For if, as Brunella Casalini maintains in her essay published here, philosophical reflection on vulnerability opens up many avenues for reconfiguring social and institutional action, beginning with a reassessment of both the ethical and political importance of care work and care relationships (Tronto, 1993; 1995; 2013; Kittay, 1999; Fineman (ed.), 2013), it also presents some important weaknesses. It is, in short, a particularly fecund philosophical perspective, which nevertheless, as Orsetta Giolo also suggests in her Conclusions, needs to be examined in depth with care and caution when, from the sphere of philosophical analysis, we

move on to that of political and legal policy. This was the motivating principle of the international call for papers (see Inter-Universities Working Group on the Political Subjectivity of Women, 2015) which made the publication of this volume possible, in its ambition to start examining the debate on vulnerability by inquiring into the possible meanings of the term, and subjecting them to critical examination, though without rejecting a priori the idea that, through the paradigm of vulnerability, it is possible to rethink, at least in part, politics, the law and institutional action.

In the new century, the notion of vulnerability developed by philosophical theory has indeed been gradually transferred to other areas and, in particular, to political, juridical and social theory, but also to legislation and to international and European policies. It has contributed to the development of a public discourse in which the role and activities of institutions are configured in new terms with respect to the twentieth-century European model of the Welfare State, by many considered outdated, both because it is considered inadequate to meet the challenges of economic globalization and because it has been accused of being too rigid, unsuited to

¹⁹ “Resilience” is for the physical sciences the capacity of a body to absorb a blow without breaking. The concept was then used in psychology to denote the capacity to face and overcome a traumatic event or a

difficult period. In the social sciences it is used broadly to mean the capacity to cope successfully with a risk. For a discussion of the meanings of the term, see in this volume, besides Marzocco, Bagattini and Gutwald.

contemporary fragmented societies in which social classes are no longer clearly identifiable, and the link between citizenship, ownership of social rights and labor appears severed.

As Chiara Saraceno has argued: “The welfare state was born and developed from social legislation that from the late nineteenth century on regulated labor relations in industry”²⁰ (2013, Kindle edition). The Welfare State, however, must be understood in a broader sense as a State that “intervenes in economic reproduction and redistribution mechanisms to reallocate life opportunities among individuals and social classes”²¹ (*Ibid.*). Today there exist various models of welfare: some, as has occurred in the history of European social-democracies, have developed thanks to the struggles of trade unions and workers’ movements, while others have derived from the contributions of the various actors, “such as the agrarian classes or the middle classes, or the women’s movement, or employers’ organizations”²² (*Ibid.*).

Welfare systems are not all alike. Even the most refurbished can do with being updated, in particular in order to better protect

those – mostly women – who carry out or have carried out in the course of their lives unpaid care-giving tasks. This request, already present in much feminist sociological and economic literature (see, for example, the numerous works of Alisa del Re, Franca Bimbi, Antonella Picchio), is formulated today with radical urgency by movements that support the need to create a “sharing welfare,”²³ which, starting with the common condition of job insecurity – and thus of “social vulnerability” – achieves the right to a “self-determination of income,”²⁴ defined as a “guarantee of the right to existence,” the “possibility of freeing up time to build, outside of the logic of performance, knowledge, relationships, politics”²⁵ (Femministe Nove, 2013). For these groups, vulnerability is above all a socially constructed given to which the State must provide an adequate response. However, there is an institutional vocabulary of vulnerability that only partially coincides with this. In the social sciences, but also in documents that address local, national and international policies, as well as in legal language²⁶, the concept of vulnerability has broad appeal,

²⁰ “Il *welfare state* nasce e si sviluppa a partire dalla legislazione sociale che, dalla seconda metà dell’Ottocento in poi, ha regolato i rapporti di lavoro nell’industria”.

²¹ “interviene nei meccanismi di riproduzione economica e di redistribuzione per riallocare le opportunità di vita tra gli individui e le classi sociali”

²² “quali le classi agrarie o le classi medie, o il movimento delle donne, o le organizzazioni degli imprenditori”.

²³ “welfare di condivisione”.

²⁴ “reddito di autodeterminazione”.

²⁵ come “garanzia del diritto all’esistenza”, “possibilità per liberare tempo, per costruire, fuori dalla logica della prestazione, saperi, relazioni, politica”.

²⁶ One of the first attempts to formalize the idea of vulnerability in international documents – by comparing it to the principles of autonomy, dignity and integrity – was made with the formulation of a Proposal of Declaration on Bioethics at the European level, adopted in Barcelona in 1998 and presented to the European Commission. On the role of the idea of vulnerability in

though the meanings this concept takes on vary greatly from one instance to the next.

It is used with reference to prevention, support and protection, aimed at individuals, specific social groups, and sometimes even territories, artworks, landscape heritages and the environment, etc. Thus the concept of vulnerability is used to frame a wide range of social issues and – as Estelle Ferrarese also notes in her essay – we refer to it alternately as a universal condition and as a characteristic of specific categories of subjects²⁷. It often refers to children and, in particular, children living in poverty, who – as Alexander Bagattini and Rebecca Gutwald show in this volume – can be considered as a category exposed to specific forms of vulnerability. At times universal vulnerability and particular vulnerabilities appear to clash²⁸, while at other times they seem to be associated²⁹. On the subject of the social sciences and in some policies, ontological vulnerability – whether presented as universal or ascribed to certain categories of

human beings – often appears confused with vulnerability produced by social institutions themselves³⁰.

“Vulnerability” appears, therefore, like other concepts that have had great success in the social sciences and then have become part of public discussion and common parlance³¹ a catchword, the use of which may in some cases be misleading, but it reveals the need to designate something new, to promote an unprecedented point of view. Far from being the result of a current fashion, the success of this notion appears justified by the need to rethink the institutions and social ties of late modernity (Beck, 1986), also from a gender perspective (see Del Re, 2013), as Elena Pulcini has clearly indicated in *La cura del mondo* (2009).

The results which this rethinking can lead, however, are uncertain. The vulnerability paradigm is, as mentioned, ambivalent. Moreover, it seems to presuppose a democratic and pluralistic society in which it is possible to

the law, see in this volume Maria Giulia Bernardini’s essay, which lays particular emphasis on the interruption in the language of fundamental rights with the adoption in 2006 of the UN Convention on the Rights of Persons with Disabilities (UNCRPD), a Convention that became operative in 2008.

²⁷ The topic of socially constructed vulnerability, “special vulnerabilities” and the relationship between vulnerability and poverty is examined in this volume by Estelle Ferrarese, with particular reference to Robert Castel’s (1991) and Serge Paugam’s (1991) considerations. See also Ferrarese’s essay “Vulnerability: A Concept with Which to Undo the World as It Is?”, 2016.

²⁸ I refer in particular to the instance in which policies and regulations identify specific categories of “weak”

beneficiaries of protection, due to a deficit presented as a constituent of the subjects themselves (female weakness, difficulty in integrating foreigners, disability, etc.), helping to crystallize inferiorizing stereotypes and presupposing that society is homogenous and composed, with certain exceptions, of autonomous individuals conceived as “invulnerable.” As for the disabled, this viewpoint has been regarded as typical of the so-called “ability model” denounced by the authors linked to Disability Studies (see Bernardini, 2016).

²⁹ It is true of the Proposed Barcelona Declaration of 1998 (see above, note 26).

³⁰ Brunella Casalini examines the topic in depth in this volume.

³¹ I am thinking especially of the word “globalization.”

overcome conflicts and rebuild new forms of community. According to this view, with the demise of the patriarchal paradigm of modernity³², the State takes responsibility for the “care” horizon (Del Re, 2013; Lister, 2003). Public institutions – in which an ever greater role is being played by women workers and, to a lesser extent, by women designated to hold positions of responsibility – are being “feminized” (see for instance the World Economic Forum, 2015), demonstrating – this is at least the hope – that they are more attentive to social inclusion which is no longer based on integration through work, but on the need to receive and give “care.”³³ According to this view, the language of rights tends to lose importance. The proposed perspective seems focused on reassessing the community dimension³⁴, the importance of social and emotional ties, mutual obligations, responsibility, rather than the individualistic paradigm that the rule of law model presupposes (Zolo, 2002).

The recognition of civil, political and social rights – as Norberto Bobbio taught (1990) – was the result of conflicts – even bloody ones – which from time to time have featured certain social classes³⁵. From the second half of the twentieth century some headway has been made by the so-called third generation rights (Ferrajoli, 1994), whose consecration in constitutional and legislative texts – where it has taken place – is due mainly to the arduous struggles for recognition of minorities and marginalized groups (women, homosexuals, African Americans, religious minorities, etc.). The assumption of vulnerability as a new public spotlight of action seems to move from the idea that this historical phase is over and that – at least in the Western democracies – it is possible to rethink politics and institutions on the basis of a new inclusive universalism. This perspective parts from the observation that the “politics of identity” (Young, 1990), which has led to the recognition of many minority rights, today risks turning in on itself, by placing in constant

³² For a discussion on the concepts of “patriarchy,” “neo-patriarchy,” and “post-patriarchy,” see for example Morondo Taramundi, 2015; Persano, 2014 and Giolo, 2015. Many of the philosophical and sociological analyses on vulnerability do not explicitly espouse the thesis of the “death of patriarchy” sustained, at least in Italy, by some influential feminists (see Libreria delle donne, 1996). Some of these analyses – such as those of Judith Butler, Adriana Cavarero and Martha A. Fineman – are even linked to a denunciation of the so-called heteronormative patriarchal system, i.e. a system based on male dominance over women and on heterosexuality as the founding norm of the social order. And yet, it

seems to me that all these analyses are animated by a confidence in the possibility of redesigning institutional action by overcoming the patriarchal contractarian model of the Modern State.

³³ What I maintain here is not that care is a feminine prerogative but that considerations about care derive from feminist movements and theories that have also stressed the need to bring it to the center of public debate and institutional action.

³⁴ Although understood as deeply different from the “immune community” that is the focus of many communitarian visions (see Pulcini, 2009).

³⁵ On this point see also Ferrajoli, 2002.

competition with each other the different social groups bearing requests for recognition³⁶. It is destined to maintain a state of permanent conflict, a clash between irreconcilable visions of the world.

According to the vulnerability paradigm, it is therefore necessary to rediscover what unites us as human beings in order to re-establish a more just and peaceful society. It is undoubtedly a fascinating prospect, but one that conceals numerous pitfalls. In particular, in the context of the neo-liberal system in which we are immersed, it can lead to masking altogether different governmental³⁷ objectives and to support disguised forms of “tyranny of the majority”³⁸ and political and cultural imperialism. If institutions and the community take charge of the vulnerability of individuals or certain groups, their intervention can take on a paternalistic and even illiberal character. Ideas of agency³⁹, conflict and emancipation, which were the basis of modern politics, may lose importance. Then there is the risk that, through the universalist interpretation of the notion of vulnerability, the most subversive part of feminist thought may end up being removed:

one that emphasized the persistence of male dominance and the need to overthrow it⁴⁰, but also one that, by criticizing so-called “White feminism,” has highlighted “from margin” reflection (bell hooks, 1984; Anzaldúa, 1987) and the importance of always bearing in mind the fracture brought about by colonialism (Spivak, 1999).

Lastly, the objective of strengthening the resilience to respond to individual vulnerability and that of certain groups – a goal which, as Bagattini and Gutwald emphasize in this volume, can be decisive for protecting certain social groups – can at the same time lead, within the individualist neo-liberal anthropological model, to supplanting the more radical forms of resistance to oppression and to hinder the construction of collective subjects who are bearers of a “grassroots social solidarity.” This idea lies at the basis of significant experiences of twentieth-century constitutionalism – starting with the Italian one of 1948 – and has been translated into fundamental rights consecrated not only at the national but also at the international level (see Rodotà, 2016). The vulnerability paradigm, rather than eclipsing the language of rights,

³⁶ This idea is also expressed clearly by Martha Fineman.

³⁷ The reference is to the concept of “governmentality” as developed by Michel Foucault (see Foucault, 2004). Foucault indicated by this term “the rationality of administrative power that characterizes modern liberal societies” (Andreani and Bernini, 2009: 142)

³⁸ The expression, as is known, comes from Tocqueville (1840).

³⁹ “The term agency [...] refers to a complex polysemy, implying, at the same time, the concepts of action, self-positioning of the subject agent, and assumption of responsibility (also in an ethical-political sense) toward the action itself” (Andreani and Bernini, 2009: 135).

⁴⁰ See the works of Catharine A. MacKinnon.

could then be used to interpret these rights, to define them with increasing accuracy and reinforce their effectiveness. Vulnerability and solidarity should then be considered as an indissoluble pair, as essential references for European as well as international constitutionalism (see Mazzaresse, 2016). The bottom-up construction of an emancipatory notion of vulnerability (Zanetti, 2016) may well lead to an auspicious update of the interpretation of the principles of dignity, equality and solidarity – an update already in progress in the activity of national and international courts – principles that nevertheless still appear today as indispensable⁴¹.

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⁴¹ For an analysis of these principles and their interrelation in the Italian Constitution, see Lorenza Carlassare, 2012.

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