



Humility when responding to the abuse of adults with mental disabilities☆☆☆☆



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ABSTRACT

Legal theorists often reduce the ethics of responding to the abuse of another person to a clash between the principles of autonomy and protection. This reduction is a problem. Responding to suspected abuse requires humility – the potential responder must be aware of and respect their own limits – but humility cannot be usefully reduced to protection and autonomy. Using examples from the Court of Protection of England and Wales, this article examines the different ways that someone responding to abuse should respect their own limits, and suggests that a failure to do so will disproportionately affect people with mental disabilities. It is therefore necessary to attend to whether the law fosters humility among those who respond to abuse, although this must be tempered by humility about legal reform itself. Finally, the article shows how attention to humility can assist the interpretation of Article 16 of the UN Convention on the Rights of Persons with Disabilities; and suggests that, so interpreted, the Convention may help to promote humility when responding to abuse.

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1. Introduction

Legal theorists often reduce the ethics of responding to the abuse of another person to a clash between autonomy and protection.¹ This causes a problem, one of a type observed by Williams (1985/2011). Theory aims for systemic unity, so it reduces the number of ethical ideas to a manageable minimum. 'Reflective criticism', in contrast, aims for shared understanding, so it uses any material that 'makes some sense and commands some loyalty' (Williams: p. 129–130). In other words, a choice must usually be made between theoretical simplicity and doing justice to the complexities of human life. This article is directed to the latter end. It suggests that responding to suspected abuse requires humility, something that cannot be usefully reduced to protection or respect for autonomy. It makes this argument in a series of widening concentric circles. Starting with a potential responder's attitude to their own knowledge, it expands

to humility in individual actions, then to humility and legislative actions, and finally to humility and the UN Convention on the Rights of Persons with Disabilities ('UNCRPD').² Throughout, the argument is supported with examples taken from the Court of Protection of England and Wales.

A lack of humility when responding to abuse can lead to systematic injustices for people with mental disabilities. It does not, however, do so in an obvious way. This is not a case of direct discrimination, or even of the discriminatory application of formally neutral laws, although both of those things also occur. Instead, it is a case where the background conditions of society mean that applying apparently neutral, but inadequate, systems in an apparently neutral way will nevertheless disproportionately affect a particular group. People with mental disabilities suffer more abuse than those without (Hughes et al., 2012). This is a primary systematic injustice. If responses to abuse, however, are inadequate, then this also leads to a secondary systematic injustice. Mentally disabled people, because they suffer disproportionate abuse, disproportionately rely on social and systemic responses to abuse. If those responses are inadequate, then the burden of that inadequacy will disproportionately fall on them. This secondary injustice could, of course, be addressed by stopping the abuse; but it could also be addressed by improving the flawed system. Given the probable difficulty of ending widespread abuse, it may be best to attempt both of these things.

Sections 3 and 4 show, by example, that the principles of autonomy and protection cannot adequately guide responses to abuse. The reason why they are inadequate can be easily summarised. Analysing a case of

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¹ This binary is ubiquitous, but for examples see Ellis (1992), Richardson (2007), and Dunn, Clare, and Holland (2008).

² Convention on the Rights of Persons with Disabilities (adopted 13 December 2006, entered into force 3 May 2008) 2515 UNTS 3.

suspected abuse in terms of this binary focuses attention on the relationship between the potentially abused person and the potential abuser, but this oversimplifies the situation. For a response to be possible, then there will not only be a relationship between two people, abused and abuser; but a set of relationships between at least three: abused, abuser, and potential intervener. The particular features of a potential intervener, such as what they know and what they can do, cannot be ignored when deciding how they should respond to suspected abuse. If that is so, though, then any potential intervener should not only evaluate the situation in front of them. They should also evaluate their own relationship to that situation. They should, as Nagel says (1986: p. 4), 'step back from [their] initial view ... and form a new conception which has that view and its relation to the world as its object'. This 'step back' is not protection or respect for autonomy. It is something different, a form of self-evaluation. It is not enough, however, to merely say that potential responders to abuse should evaluate themselves. That would provide no information about which parts of the self should be evaluated or to what standards it should be held. If the idea of self-evaluation is to be useful, more detail must be provided. That might seem like a massive task. Fortunately, though, there is no need to start from scratch. History provides a rich concept of self-evaluation that has been analysed for centuries: humility.

2. Humility

This section describes some features of humility.³ Later ones use this description to analyse responses to abuse. One feature of humility, and enduring theme of the literature, is central to this article: humility includes an awareness of, and respect for, your own limits.⁴ If humility is to augment the idea of self-evaluation, then this can provide a starting point. It suggests which part of themselves a potential responder to abuse should evaluate, their limits. Beyond this, however, humility can also help to provide the standards with which someone can evaluate themselves. This can be shown by analysing a succinct statement by Aquinas: 'Humility restrains the appetite from aiming at great things against right reason' (1247/1947: IIa-IIae, 161, 1).

Aquinas's statement has three important features. First, humility 'restrains the appetite', it leads someone to re-evaluate a course of action that they would otherwise be inclined to take. In the context of suspected abuse, this can work in either direction. Humility can moderate a desire to protect someone or a desire to respect their autonomy, when either is against 'right reason'. This is the second point. Humility does not restrain desire indiscriminately, it targets only desires that are unreasonable in the circumstances. Third, and finally, the ends that humility restrains someone from aiming at are 'great'. Humility is not important because it stops someone from trying to do wrong, other virtues do that, but because it stops them from unreasonably trying to do right. The desire to protect another person and the desire to respect their autonomy are both admirable. It is, however, possible to attempt either in an unreasonable way, as examples in later sections illustrate.

Aquinas's statement makes it possible to address some persistent misunderstandings about humility. It is important to do so. Humility does not have the prominence that it had in earlier eras. Consequently, modern scholars can fail to grasp not only the subtlety of older traditions (Clement, 2015: p. 15–20) but also the central role of human limitation in enlightenment philosophies (Cooper, 2013: p. 5), which are sometimes assumed to have consigned those traditions to history. This is not to say that humility is now entirely neglected, for it has been

defended as essential to democracies (Button, 2005), especially pluralistic ones (Parsons, 1995). Nevertheless, three misunderstandings are common: a conflation of humility and self-abasement; the idea that humility necessarily reinforces existing hierarchies; and the idea that humility is overly inwards and self-directed.

The first common misunderstanding is to equate humility with self-abasement, so to think that it must necessarily lead to inaction or despair. This view fails to notice that someone is only humble when they recognise a limit that they actually have. Being aware of real limits does not require someone to imagine limits that do not exist. When Murdoch (1970: p. 93) says that 'humility is not a peculiar habit of self-effacement, rather like having an inaudible voice, it is selfless respect for reality', her point is orthodox. The emphasis on right reason in Aquinas has already been mentioned; and, similarly, Augustine (415/1997: Ch.38) states that humility should be 'on the side of truth, not on the side of falsity'. Tying humility to honesty in this way undermines the idea that humility leads to inaction, and this is significant for responses to abuse, where anything that leads to unnecessary inaction might seem suspect. The connection to honesty also reveals something of the deeper rationale for humility. One reason that humility is important is that humans do systematically tend to overlook their own limits. This insight is old, but experimental psychology tends to support it (Dunning, 2005); and just as importantly, psychology also suggests that this overconfidence can sometimes be addressed (Ehrlinger, Mitchum, & Dweck, 2016). In other words, science seems to reaffirm both the need for humility and its possibility. This, too, is relevant to responses to abuse, where demanding the impossible would be little practical help.

The second common misunderstanding of humility is to think that it necessarily maintains hierarchies; that it is something forced on the weak by the strong. This misunderstanding, like the last, is deeply ahistorical. It does not pay attention to where the advice to be humble was traditionally directed. Although the virtue has been invoked to support existing social orders, there are also influential traditions that assert it is the powerful who most need humility if their power is to remain legitimate. Clement (2015: p. 127) shows that humility in the early modern period was widely understood as 'a virtue that resists tyranny even as it can be invoked to support the status quo'; and, similarly, Klancer (2012: p. 670) shows that for both Aquinas and the Confucian Zhu Xi, humility is 'a virtue inherently fitting for the strong'. The idea that it is the powerful who must be humble has more recently been applied to clinical relationships (DasGupta, 2008); and this aspect of the virtue is important to the present article, for those in a position to intervene in cases of abuse almost invariably have considerable power relative to the person thought to be suffering abuse.

The final common misunderstanding of humility is to think that because it is concerned with the person's own limits that it is too inwardly directed to usefully guide action. Once again, this idea lacks historic support. As Button (2005: p. 850) notes, even St. Bernard, a monk writing primarily for other monks, emphasised humility not as an end in itself, but as a precondition to cultivating good relationships. Indeed, Bernard (1120/1973: III.6) was blunt: 'you will never have real mercy for the failings of another until you know and realise that you have the same failings in your soul'. Similarly, Boyd (2014: p. 258) points out that for Aquinas, too, humility is social. It 'enables us to value ourselves as members of a community in which no one person possesses independent, god-like status'. The more recent literature has, if anything, further emphasised the social implications of humility: Button (2005) argues that pluralistic democracies depend on citizens cultivating sensitivity to their own limits, and the limits of their institutions and laws; Penrose (2010) that humility underwrites the correct moral response to wrongdoers; and Coulehan (2011: p. 206) that humility is necessary to respond appropriately to the 'ambiguities, mysteries, and surprises' of the clinical encounter. This article is a further small contribution to the social argument for humility. Its central claim is that only humble responses to abuse will be socially effective, both at the level of

³ Humility has a long and complex history. The aim here is to draw attention to some relevant details, not to give a complete account of the virtue.

⁴ Compare three statements almost evenly spaced through the last seven centuries: Aquinas (1274/1947: IIa-IIae, 161, 2) 'Knowledge of one's own deficiency belongs to humility'; Descartes (1649/1985: art.155) 'We have humility as a virtue ... as a result of reflecting on the infirmity of our nature'; and Grenberg (2005: p.162) 'The humble person understands her limits'.

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