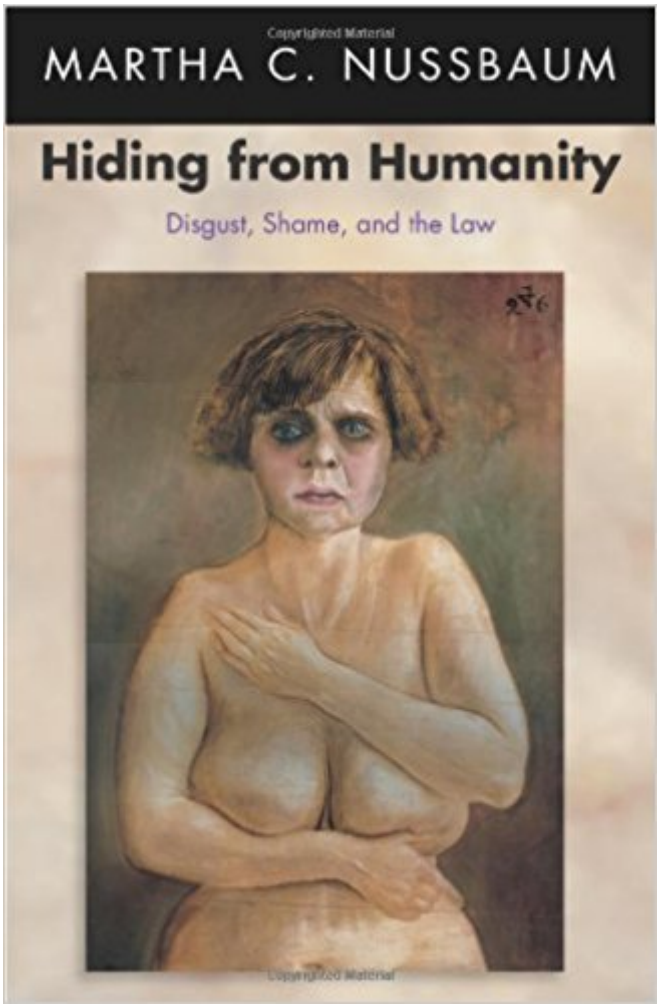
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Hiding From Humanity: Disgust, Shame, And The Law



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Synopsis

Should laws about sex and pornography be based on social conventions about what is disgusting? Should felons be required to display bumper stickers or wear T-shirts that announce their crimes? This powerful and elegantly written book, by one of America's most influential philosophers, presents a critique of the role that shame and disgust play in our individual and social lives and, in particular, in the law. Martha Nussbaum argues that we should be wary of these emotions because they are associated in troubling ways with a desire to hide from our humanity, embodying an unrealistic and sometimes pathological wish to be invulnerable. Nussbaum argues that the thought-content of disgust embodies "magical ideas of contamination, and impossible aspirations to purity that are just not in line with human life as we know it." She argues that disgust should never be the basis for criminalizing an act, or play either the aggravating or the mitigating role in criminal law it currently does. She writes that we should be similarly suspicious of what she calls "primitive shame," a shame "at the very fact of human imperfection," and she is harshly critical of the role that such shame plays in certain punishments. Drawing on an extraordinarily rich variety of philosophical, psychological, and historical references--from Aristotle and Freud to Nazi ideas about purity--and on legal examples as diverse as the trials of Oscar Wilde and the Martha Stewart insider trading case, this is a major work of legal and moral philosophy.

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Customer Reviews

Often, contentious social issues like gay marriage, pornography and stem cell research are framed in terms of religion, morality and the public good. This erudite and engaging treatise contends that

these debates are frequently really about the primal emotions of disgust and shame. Philosophy professor Nussbaum, author of Upheavals of Thought: The Intelligence of Emotions, challenges a number of fashionable intellectual currents, including Leon Kass’s notion of a bioethics based on "the wisdom of repugnance" and communitarian Amitai Etzioni’s championing of public humiliation of drunk drivers and other criminals. In response to advocates of populist reflexes of disgust and shame as a cure for social degeneracy, she mounts a critical defense of the classical liberal philosophy of John Stuart Mill, one refounded on a psychoanalytic theory of the emotions. She argues that while disgust and shame are inescapable psychological reactions against human animality, weakness and decay, injecting them into law and politics ends up projecting these troubling aspects of ourselves onto stigmatized groups like homosexuals, women, Jews and the disabled, and is therefore incompatible with a liberal and humane society. Writing in an academically sophisticated but accessible style, Nussbaum is equally at home discussing Aristotle and Freud, Whitman’s poetry and Supreme Court case law. The result is an exceptionally smart, stimulating and intellectually rigorous analysis that adds an illuminating psychological dimension to our understanding of law and public policy. Copyright Ã Â© Reed Business Information, a division of Reed Elsevier Inc. All rights reserved.

A citizen filled with grief or anger may advance the cause of liberal equity, but a citizen filled with disgust never will. So argues an acclaimed legal theorist in this sophisticated exploration of how emotions enlarge or contract the nation’s commitment to equal dignity for all. Nussbaum insists that no strictly intellectual approach to law will ever illuminate the true reasons humans join in self-governing unions. Because they reflect humans’ true vulnerability, the emotions of fear, compassion, and indignation provide guides to sound legal philosophy, but disgust, Nussbaum argues, should never form an emotional basis for law because it springs--in her view--from fantasies of superhuman purity and omnipotence. Too scholarly for most casual readers, Nussbaum’s analysis nonetheless treats topics (such as same-sex marriage and nudity) sure to interest nonspecialists--many of whom will find her theories about disgust and shame too psychoanalytic to justify her support for judges who have frustrated electorates motivated by such passions. Populists and communitarians will lock horns with legal theorists in the debates this book will provoke. Bryce ChristensenCopyright Ã Â© American Library Association. All rights reserved

The thesis presented in this book is relatively simple. Human beings are deeply troubled about being human--being highly intelligent and resourceful, on the one hand, but weak and vulnerable,

helpless against death, on the other. We are ashamed of this awkward condition and, in many ways, we try to hide from it. In the process, we develop sentiments such as shame at human frailty and disgust at the signs of our animality and mortality.In addition, we use these two emotions to project our fears on marginalized groups or people who come to embody the dominant group's fear and loathing of its own human frailty. Disgust and shame are therefore two potent human emotions, but they are also problematic and should not be used as a reference in law formulation or legal punishment. On the contrary, law should protect citizens from insults to their dignity such as shaming and scapegoating.Martha Nussbaum describes her book as "an essay about the psychological foundations of liberalism" and she makes great use of experimental data, including materials from child psychology and psychoanalysis, in her analysis of shame and disgust. On the other hand, apart from a few references to Erving Goffman's psycho-sociology of stigma, she doesn't mobilize insights from anthropology and the social sciences, and doesn't attempt to compare the variations encountered by human emotions across cultures. She dismisses Mary Douglass' analysis of purity and pollution as irrelevant to her subject, and makes no reference to Rene Girard's theory of violence and the sacred.Likewise, the conclusions she draws from her analysis of emotions and the law are mostly confined to the American context, and she makes no reference to other legal traditions. Her defense of same-sex marriage or her critique of some aspects of obscenity laws are bound to be provocative. Unfortunately, she tends to dismiss her opponents as falling prey to "moral panic" instead of seriously engaging their arguments.Although I am sympathetic to Nussbaum's liberal agenda, I am not fully convinced by the theoretical foundations of her analysis, and I cannot follow her on some of her conclusions. But Hiding from Humanity nonetheless provides an interesting read. It should be appreciated by all who care about political liberalism and its core ideals of equal respect, reciprocity, and the inviolability of the person.

This is a remarkable book. As a gay man, I found myself saying "thank you" outloud as I finished each chapter. Nussbaum is more than just a wonderful American philosopher, she's a national treasure. If you haven't read her exchange with the, in my opnion, evil philosopher John Finnis, I highly recommend you do. One final point, although I am also a fan of Judith Butler (and I know that Nussbaum and Butler don't always see eye to eye), I see no reason why anyone has to "choose sides." Both of these women are amazing, and both are great to read. The book is very long, which is fine becuase thinkers like Nussbaum have so many interesting ideas and observations on the world we live in. One impression that I got from the book (and this has nothing to do with Nussbaum's own views) is how hard it is trying to come up with a non-theological (that is,

non-mystical) argument against homosexuality. Personally, I don’t think one can be made -- not a convincing one, at least. Nussbaum co-edited a debate-style book on sexual orientation and American religion, and all the arguments against homosexuality really fell flat and seemed so outdated and almost "hokey." So they really weren’t that convincing either. Bottom line is: gays and lesbians have as much right to freedom and the benefits that come with it (marriage, ect.) that straight people do. After all, marriage is all about economic rights and perks whether we want to admit this to ourselves or not. It isn’t fair that heterosexuals should have a monopoly on those rights, benefits, perks etc. And besides, who doesn’t want gays and lesbians to be in loving, happy, monogamous relationships? And what better incentive is marriage?

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