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Special Issue on Law and Vulnerability

Introduction: Adaeze Okoye

This special issue brings together papers, which deal with varying aspects of how the law addresses human vulnerability. Some of the work published here had its foundations in the Research and Knowledge Exchange Conference held in 2015 at Canterbury Christ Church University. During the law session, it became clear that there was a common theme emerging from papers on migrant women, unmarried cohabitants and elderly performing artists... The need to frame that commonality led us to vulnerability as a theme.

The questions of why the law should respond in each of these situations led to wider analysis evidenced in the papers here. In response to the issue of why law? why state law? The answer can be deduced from Fineman's response on the role of the state in responding to vulnerability: "Vulnerability is posited as the characteristic that positions us in relation to each other as human beings and also suggests a relationship of responsibility between state and individual. The nature of human vulnerability forms the basis for a claim that the state must be more responsive to that vulnerability".¹ The state can respond through establishing, regulating and monitoring institutions but it has an obvious tool in its use of law. Therefore, the use of law when dealing with various manifestations of vulnerability is central to our analysis in this special issue. The manifestations of vulnerability may be viewed in the general or in the particular. In the particular, they can be seen in 'vulnerable groups' with further characteristics which predispose these persons to harm and warrant special protections of the law and in the general, it is the 'human condition' and we are subject to circumstances which could render us vulnerable.

For some of the papers, there is an explicit focus on vulnerability and for others it is implicit but the aim is to highlight aspects where the law faces critical challenges in responding to an aspect of vulnerability or vulnerable groups.

Gordon-Bouvier proposes that property disputes between former intimate partners should be examined through the lens of vulnerability. The article suggests that "relational vulnerability" may offer a better assessment of caring contributions than current law.

Graca assesses whether and how current UK legislation and policy on domestic violence addresses immigrant women's added vulnerabilities. This covers three potential categories on vulnerabilities – victims of violence, migrants and women.

Nanayakkara examines protections in Sri Lanka's intellectual property laws for aging performers which are classed as a 'commercially vulnerable' group.

Finally, Orji analyses the issue of housing fitness under EU law. The need for housing is a central aspect of human vulnerability

The objective of this special issue is to offer an illustration of some of the issue thrown up by law's response to aspects of human vulnerability. This should serve as a spring-board for further discussion and analysis in this area.

¹ M A Fineman, *The Vulnerable Subject and the Responsive State*. *Emory Law Journal*, Vol. 60; *Emory Public Law Research Paper No. 10-130*. Available at SSRN: <https://ssrn.com/abstract=1694740> p.10