



EMORY  
UNIVERSITY

# Vulnerability and the Human Condition Initiative

Winter 2017-2018  
Rachel Ezrol, Editor



EMORY  
LAW

## Feminism and Legal Theory Project

Martha Albertson Fineman, Director

Greetings from the Vulnerability and the Human Condition Initiative! Included in this issue are highlights from our recent workshops, exciting announcements, and important save the dates. You will also find information on recent presentations and publications by FLT/VHC members, website information and visiting scholar profiles.

### The Launch of a Sister Hub: “VHC-Leeds”



The Vulnerability and Human Condition Initiative (VHC) at Emory University School of Law is pleased to announce the launch of a new, vulnerability-focused research hub in the School of Law at the University of Leeds. The new “VHC-Leeds” will be hosting a range of workshops, visiting scholars, and other scholarly events in the years to come, and will be housed within the law school’s dynamic Centre for Law & Social Justice (co-directed by Professor Michael Thomson and Dr. Jen Hendry). Professor Martha Albertson Fineman and Dr. Stu Marvel will be travelling to Leeds throughout the academic year to serve as the coordinators of VHC-Leeds, with Dr. Marvel to eventually take up a permanent teaching position at the School of Law, University of Leeds. VHC-Leeds convened, “A

Workshop on Vulnerability and Professionalism,” in October 2017 to inaugurate the research hub and to kick off an exciting, new multi-year project committed to the comprehensive exploration of vulnerability, professional relationships, and institutional responsibility. We invite scholars and visitors from across the UK, Europe, and the world to come visit us at our new home at Leeds, and look forward to the development of a thriving new intellectual space for vulnerability scholarship and inquiry.

### Meet our new VHC-SJD Candidate, Fabrizia Serafim

Before matriculating into Emory Law’s Vulnerability and the Human Condition SJD track, Fabrizia Serafim earned her Bachelor’s Degree in Law from the Federal University of Rio Grande do Norte in Brazil, where she is a practicing attorney, and her LLM from the London School of Economics and Political Science. Serafim was the recipient of a Chevening Scholarship, the UK Government’s global awards program aimed at developing global leaders, funded by the Foreign and Commonwealth Office (FCO) and partner organizations. Serafim’s doctoral research seeks to examine the history of feminist debates on pornography and to assess the impact of the work of key scholars like Andrea Dworkin and Catharine MacKinnon; in doing so, she intends to trace the emergence of the innovative theoretical framework of vulnerability to interrogate contemporary critical analyses of power and institutional form.



## A Workshop on Legal Migrations: Locating Vulnerability and Fostering Resilience in Law's Dynamism

On December 8-9, 2017, VHC hosted, A Workshop on Legal Transitions and the Vulnerable Subject: Fostering Resilience through Law's Dynamism. Professor Suzanne Kim (Rutgers School of Law) served as a co-convenor along with Professors Deborah Dinner and Martha Albertson Fineman. The workshop employed vulnerability theory to investigate how individuals and groups experience change as they transition across legal categories. The first panel on "The Life Course and Vulnerability" examined multiple legal transitions including aging, child development in the context of war, recovery from gambling addiction, and immigration. The panel on "Legal Boundaries, Crisis, and Social Groups" analyzed how law alternately exposes vulnerability and fosters resilience in moments of dramatic social and environmental shifts. Papers discussed legal migrations in the context of marriage equality, climate change, mass migration, and the construction of new family forms. A third panel on "Temporality and Vulnerability" discussed two very different transitions: individuals' movement across the threshold of death and U.S. workers' transition from slavery to liberty. Our final panel explored "Criminalization and Vulnerability." Papers analyzed the criminalization of poor fatherhood, encounters with intimacy in mental health court, and incarcerated women's perceptions of stigma.

## Vulnerability: The Parent, the Child, and the State A Conversation with Meredith Johnson Harbach

On December 12, 2017, Professor Meredith Harbach of the University of Richmond School of Law shared her work in progress, applying vulnerability theory to rethinking fundamental questions of state responsibility for parental rights and child welfare.

Tiger mom. Helicopter parent. Free-range kids. In the United States, there's no shortage of opinions about which approach to parenting is best. But what about how the state parents our children?

This project will revisit *parens patriae* and argue for an understanding of the state's role that moves beyond limited historical interpretations toward a broader understanding of affirmative state obligation. This essay seeks to articulate a contemporary understanding of *parens patriae* that recognizes the state has an obligation to provide the care and support necessary to ensure child wellbeing and resilience.

A PRESENTATION BY:  
MEREDITH  
JOHNSON  
HARBACH

THE NEW  
PARENS  
PATRIAE

## VHC-Leeds Welcomes its First Visiting Scholars

This October and November, VHC-Leeds welcomed: Professor Rachel Rebouche, Temple University; Janet Delgado, University La Laguna, Spain; and Dr. Margunn Bjornholt, Norwegian Centre for Violence and Traumatic Stress Studies, Oslo, all of whom visited the Centre for two-week periods.

"Fear of Dying and Intimate Partner Violence"  
A Presentation by Dr. Margunn Bjørnholt  
School of Law, University of Leeds  
October 25, 2017

"Professionalism and Vulnerability in Healthcare Field"  
A Presentation by Janet Delgado  
School of Law, University of Leeds  
October 28, 2017

## Presentations by Emory Law VHC Affiliates



**Paula Ahumada**  
Workshop Participant and Presenter, *Legal Neoliberalism, Democracy, and the Problem of Money*, Institute for Global Law and Policy (IGLP) Scholars Workshop, Thailand Institute of Justice, Bangkok, Thailand, January 2018.

**Deborah Dinner**  
Invited Contributor, "The Story of *Geduldig v. Aiello*," Conference for REPRODUCTIVE RIGHTS AND JUSTICE STORIES (Foundation Press), Yale Law School, December 2017.

Invited Panelist, Presidential Panel on Labor and Commenter, Panel on "Seeing Difference," Michael Boucai, Marie-Amelie George, Allison Tait, American Society for Legal History Annual Meeting, October 2017.

## In Summary: A Workshop on Property, Vulnerability, and Resilience

On September 22-23, 2017, the VHC and VHC- Leeds collaborated with Deputy Vice-Chancellor Lorna Fox O' Mahony of the University of Essex and Professor Marc Roark of Savannah Law School to host a workshop on Property, Vulnerability, and Resilience at the University of Essex in Colchester, UK. Panelists used vulnerability theory to explore the role of property ownership in the allocation, preservation, or maintenance of privilege and disadvantage. Questions of the relationship between property and resilience were central to the conversation, with discussions ranging across issues of migrants, squatters, rental protections, the importance of communal property, and the centrality of housing policy within a responsive state. Papers also pushed 'beyond real property' to consider issues around social media, emotions, and non-human animals.

## Save the Date: Upcoming Conferences, Conversations, and Celebrations

A Conference on Vulnerability and the Social  
Reproduction of Resilient Societies  
Emory University School of Law, Atlanta GA  
May 29 - 31, 2018

Law and Society Association  
Two Roundtable Sessions: Reflections on  
Vulnerability Theory- Retrospective and Prospective  
Toronto, Canada  
June 7 - 10, 2018

International Conference: Celebrating the 10-Year Anniversary of the Vulnerability and the Human  
Condition Initiative (VHC)  
VHC-Leeds, School of Law, University of Leeds  
Leeds, UK  
September 20 - 21, 2018

## A Workshop on Professionalism and Vulnerability

Vulnerability and Professionalism represents a multi-year project to explore how a focus on vulnerability -of the professional, the professions, the client, and the larger society can help us to understand the social ramifications of professional behavior. This workshop on vulnerability and the professions both launched this new intellectual project, and served as the inaugural event of the new VHC-Leeds research hub.

From October 27-28, 2017, panelists gathered over a full two-day schedule to discuss how a vulnerability focus might help us to rethink fundamental questions of social and structural responsibility, as well as the role to be played by law and institutional norms. Scholars from the disciplines of business, medicine, and law came together to discuss issues of professional identity and values within the context of vulnerability theory. Papers ranged widely from corporate and finance law, criminal justice, social work and employment law, to questions of healthcare provision and education, fiduciary duty, and public trust.



## An Uncomfortable Conversation: A Workshop on Vulnerability and Autonomy

This 'Uncomfortable Conversation' was hosted by the VHC at Emory Law from February 23-24, 2018, to interrogate the ideas, discourses, and norms of autonomy. Participants investigated their attachments to the goal of individual autonomy, and struggled toward a key conceptual shift by applying vulnerability theory to think about the production of resilience. By focusing on institutions rather than on individuals, participants questioned not only the supposed vulnerability/autonomy dyad, but also concepts such as "relational autonomy" and "relative autonomy" which have sought to bridge this conceptual divide. Papers incorporated rich critiques of neoliberalism, bioethics, consent, and the language of equality to think more carefully about the ways in which traditional notions of autonomy limit our conceptions of justice. Participants also attended to questions of institutional vulnerability and the public/private divide in order to consider the implications of vulnerability theory for law and policy alike.

## Recent Publications

### Deborah Dinner

#### Publications

Beyond “Best Practices”: Employment Discrimination in the Neoliberal Era. *Indiana Law Review*. 92 (3). (2017).

### Martha Albertson Fineman

#### Books

*Vulnerability and the Legal Organization of Work*, Martha Albertson Fineman and Jonathan W. Fineman Eds., Series on Gender in Law, Culture, and Society (Routledge, 2017).

#### Book Chapters

“Care and Gender,” in *Reassembling Motherhood: Procreation and Care in a Globalized World*. Yasmine Ergas, Jane Jenson, and Sonya Michel Eds., (Columbia University Press, 2017).

“Homeschooling: Choosing Parental Rights over Children’s Interests,” in *The Wiley Handbook of School Choice*, Robert A. Fox and Nina K. Buchanan Eds., 362-375. (Wiley-Blackwell 2017).

“Vulnerability, the Responsive State, and the Role of Religion,” in *Exploring Vulnerability*. Heike Springhart and Günter Thomas Eds., 185-204. Göttingen. (Vandenhoeck & Ruprecht, 2017). (with Silas Allard)

#### Journal Articles

Vulnerability and Inevitable Inequality. *Oslo Law Review*. 4 (3). 133-149. (2017).

### Atieno Mboya Samandari

#### Publications

Gender-Responsive Land Degradation Neutrality. *United Nations Convention to Combat Desertification’s (UNCCD) Global Land Outlook (GLO) Working Paper Series*. (2017).

Human Rights and the Climate Change Regime. *Natural Resources Journal*. (2017).

Vulnerability and the Climate Change Regime. *UCLA Environmental Law Review*. (Forthcoming 2018).

### Ani B. Satz

#### Publications

Animals as Living Accommodations. 24 *Animal Law Review*. (Forthcoming 2018).

Protecting Injured Workers’ Medical Privacy: HIPAA’s Privacy Rule, Workers’ Compensation, and “Symbiotic Federalism,” *Emory Law Journal*. (Forthcoming 2018).

## Fall 2017 Visiting Scholars

### Shana Tabak (September 2017 - July 2018)

Shana Tabak specializes in Human Rights, Immigration and Refugee Law, International Law, and Gender. Her research explores transitional justice, gender and conflict, migrant detention, and reproductive justice. Tabak is a Visiting Professor at Georgia State University’s Global Studies Institute and Georgia State University College of Law. Previously, she directed human rights and immigration litigation at the International Human Rights Law Clinic at American University, Washington College of Law, and at George Washington University Law School. She served as a law clerk for H.E. Bernardo Sepulveda Amor at the International Court of Justice at The Hague in the Netherlands. Through clinical work and consultancies, Tabak maintains an active practice in immigration and human rights law, representing clients in immigration proceedings and in human rights tribunals.



### Mikaela Heikkilä (December 2017)

Mikaela Heikkilä is working as a postdoctoral researcher at the Åbo Akademi University Institute for Human Rights. Her areas of academic interest include victim rights, with a focus on victims of sexual violence, international criminal law, and the EU’s Area of Freedom, Security and Justice. Her recent research has focused on questions of the EU’s criminal justice cooperation (especially regarding international crimes terrorism) and migration control within the EU-FP7 FRAME project on the EU’s commitment to human rights (2013–2017). She now works as part of a newly launched project, “RELAY: Vulnerability as Particularity: Towards Relativizing the Universality of Human Rights?” (Academy of Finland, 2017–2021), which aims to contribute to unpacking the notion of vulnerability in order to analyze its function in the interpretation of law. Dr. Heikkilä intends to apply her expertise on victim-friendly proceedings and restorative justice to bring a new perspective to the human rights discourse on vulnerability. She is particularly interested in how legal categorizations and paradigms function within a vulnerability framework.



## Fall 2017 Visiting Scholars

### Maija Mustaniemi-Laakso (December 2017)

Maija Mustaniemi-Laakso works as a researcher at the Åbo Akademi University Institute for Human Rights. Mustaniemi-Laakso's research interests include questions related to vulnerability, migration and asylum law, accountability, and the human rights-based approach to development. In her work, she has focused on aspects of marginalization and exclusion/inclusion. Recently, she has conducted research on the EU refugee policies within the EU-FP7 FRAME project on the EU's commitment to human rights (2013–2017). Currently, she works with a newly launched project, "RELAY: Vulnerability as Particularity: Towards Relativizing the Universality of Human Rights?" (Academy of Finland, 2017–2021), which aims to contribute to unpacking the notion of vulnerability in order to analyze its function in the interpretation of law. Mustaniemi-Laakso is particularly interested in the use of the concept of vulnerability as an operative principle in the implementation of policies and laws.



### Meredith Johnson Harbach (December 2017)



Meredith Johnson Harbach is Professor of Law at the University of Richmond School of Law, where she teaches courses in Family Law, Children & the Law, Reproductive Justice, and Civil Procedure. Her recent scholarship has analyzed and critiqued the state's relationship to families and children through the lens of America's childcare law and policy. Her 2016 article, *Nudging Parents*, was winner of the Southeastern Association of Law Schools Call for Papers Award. Professor Harbach is chair-elect of the AALS Section on Children & the Law. She supervises the Family Law Concentration Program at Richmond Law, and recently completed a three-year, gubernatorial appointment to the Virginia Council on Women, where she served as Chair of the Women's Healthcare Initiative.

### Hui Wang (January 2017- August 2018)

Hui Wang is a lecturer of law at the College of Humanities and Law, South China Agricultural University, in Guangzhou, China. She has been an Amicus Curiae of the Guangzhou Juvenile Court since 2008, and a mediator at the Tianhe District Court of Guangzhou since September 2014. Her current research focuses on juvenile welfare legislation, with an emphasis on child protection rights. She has published several articles in Chinese academic journals which take a closer look at migrant children's education rights, welfare law, and custody law. The goal of her project is to demonstrate the need for a government that effectively responds to the rights of children through the creation and implementation of child welfare legislation, while also acknowledging the role of Chinese society in hindering such objectives. While at Emory, Wang intends to apply a vulnerability theory framework to her research, and to further explore vulnerability theory within a Chinese socio-legal context.



### Stephen R. Goodwin (March 1, 2017- May 2018)

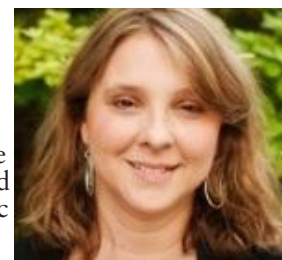


Stephen R. Goodwin has been an assistant professor in the Department of Political Science and International Relations at Yeditepe University in Istanbul, Turkey since 2006. He is a specialist in Balkan societal reconstruction, serving as a part-time consultant in this area. After receiving his PhD from the University of Edinburgh in 2005 where he wrote his dissertation on nation building and peace building in post-war Bosnia-Herzegovina, Professor Goodwin completed a post-doctoral research fellowship at Marmara University in Istanbul. Prior to his post-graduate study in the United Kingdom, he spent more than a decade in the NGO sector as an active participant in post-communist social reconstruction in Poland and Germany. Soon after the signing of the Dayton Accord (1995) brought a measure of stability to the Balkans, he shifted his focus to peace building, reconstruction, and humanitarian aid in Bosnia-Herzegovina, Macedonia, and Kosovo. His published works cover issues ranging from civil restoration, religious cohesion in times of conflict, perspectives of nationalism, peace building, and inter-religious dialogue

between Muslims and Christians. Professor Goodwin's current research seeks to examine the dynamics of conflict zones vis-à-vis the limitations of the 2005 UN norm of a sovereign state's Responsibility to Protect its own citizens.

### Holloway Sparks (May 2017 – May 2018)

Holloway Sparks earned her PhD in Political Science from the University of North Carolina at Chapel Hill and came to Emory from Penn State University in 2004. Her research interests include feminist theory, political theory, and American political thought, with an emphasis on the influence of gender, sexuality, race, and class on democratic participation and political protest in the United States. She is the author of *Dissident Citizenship: Gender and the Politics of Democratic Disturbance* (Oxford University Press, forthcoming 2017), which builds on case studies of the U.S. civil rights and welfare rights movements to theorize the neglected role of gender in public struggles over democratic dissent. Her current book project, *Enraged: Gendering the Democratic Politics of Anger*, investigates the democratic and political challenges posed by anger in the public sphere and includes case studies on the gendered and racialized politics of anger in the Tea Party, the 2016 Presidential election, the U.S. gun control debate, and recent battles over food stamps and the minimum wage.



## Presentations by Emory Law VHC Affiliates

### Deborah Dinner

Invited Presentation, *Working Families: Gender, Labor, and the Limits of Law in Neoliberal America*, Rutgers Center for Gender, Sexuality, Law and Policy, Rutgers, New Jersey, October 2017.

Invited Presentation, “*Displaced Homemakers*”: *Feminist Activism and Women’s Domestic Labor from the Civil Rights to the Reagan Era*, University of Georgia School of Law Faculty Workshop, Atlanta, Georgia, October 2017.

Workshop Presentation, *Equal by What Measure: Masculinity, Antidiscrimination Law, and Labor Protection, 1964-1991*, Berkshire Conference on the History of Women, Hofstra University, Hempstead, New York, June 2017.

### Martha Albertson Fineman

Invited Presentation, “Arguing for Inequality,” the University of Oslo Faculty of Law Workshop, “Tackling Disadvantage and Inequality through Law: Current Debates,” Oslo, Norway, June 2017.

Invited Presentation, “Violence and Vulnerability,” the Norwegian Centre for Violence and Traumatic Stress Studies (NKVTS) and the Gender Violence Coalition of Oslo, Norway, June 2017.



Painting by Neda DeCa

Invited Presentation, “Reproduction and Resilient Societies,” Lund University, Sweden, June 2017.

Keynote Speaker, “Vulnerability and Resilience,” Exeter College, University of Oxford Workshop, “Vulnerability is Good: The Implications for Law of Positive Accounts of Vulnerability,” Oxford, UK, July 2017.

Invited Lecturer, “Vulnerability, Social Justice, and the Need for a Responsive State,” Seegers Lecture on Jurisprudence, Valparaiso University School of Law, Indiana, August 2017.

Keynote Speaker, “Women and Responsibility,” Emory University Women’s Forum, Women in Leadership Networking Breakfast: The Office of Equity and Inclusion, Atlanta, Georgia, November 2017.

### Stu Marvel

Invited Presentation, *Vulnerability Theory and Assisted Reproduction: Surrogacy and Transnational Regulation*, the Center for Socialt Arbejde og Forvaltning, Roskilde University, Copenhagen, Denmark, December 2017.

Workshop Presentation, *Vulnerability and the Human Fertility and Embryology Act 2008*, Work in Progress Seminar, the Centre for Law & Social Justice, Leeds University School of Law, Leeds, UK, November 2017.

Invited Panelist, *Vulnerability and Social Justice* at the International Congress on ‘Vulnerabilities, Law and Rights’, the UC Institute for Legal Research, University of Coimbra Faculty of Law, Coimbra, Portugal, November 2017.

Invited Presentation, *Bioethics of Vulnerability in the Context of Assisted Reproduction*, the Centre for Science, Culture and the Law at the Exeter University School of Law, Exeter UK, November 2017