

Sex Work and the Regulation of Vulnerability(ies): Introduction

Sharron A. FitzGerald · Vanessa E. Munro

Published online: 27 November 2012
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This special issue focuses on the contemporary discourses and practices that have emerged, both nationally and internationally, around women's vulnerability to sexual harm. More specifically, it provides an interdisciplinary feminist critique of the racialised and gendered ways in which women's vulnerability to 'sexual exploitation' has often been constructed and responded to.

The majority of the papers included here expand upon initial discussions undertaken by their authors at an invited panel, convened by the editors and hosted at the 'Good Sex, Bad Sex' conference in Prague in 2010. By bringing these papers together in this collection, our aim is to move towards a stronger feminist intellectual framework for accommodating, engaging with and resisting, the strategic ways in which discourses of women's vulnerability are deployed by those who govern.

Across the special issue, we offer a series of articles that—without denying the concept's emotive and progressive potential—examine how the cultural and moral discourses of women's sexual vulnerability have been used, and misused, in order to advance specific political agendas, thereby generating negative as well as positive impacts upon women's lives. None of the contributors in this collection seek to deny the reality of women's vulnerability to sexual exploitation, nor do they suggest that governments across the globe do not have a vital role to play in protecting women from sexual harm and upholding their human rights. But this does not preclude us from counselling caution regarding the ways in which the label of vulnerability is constructed, applied and deployed in contemporary debates around sexual exploitation, where a range of other social, economic and political agendas are implicated.

S. A. FitzGerald
School of Law, Prof.-Huber-Platz 2, 80539 Munich, Germany

V. E. Munro (✉)
School of Law, University of Nottingham, University Park, Nottingham NG7 2RD, UK
e-mail: vanessa.munro@nottingham.ac.uk

Seeking to resist the neoliberal colonisation of core feminist political and theoretical concerns, each of the contributions that follow address longstanding themes of gender, sexuality, prostitution, human trafficking and the regulation of ‘deviant’ sexualities in alternative ways. The contributors ask new questions of core feminist issues, providing readers with a series of timely and interconnected commentaries on how, why and with what affect governments deploy the concept of vulnerability. In doing so, we attempt to offer a lateral, critical and alternative engagement with pre-existing debates, and to make a contribution towards an evolving, but as yet far from finished, dialogue on feminist uses of, and challenges to, the concept of vulnerability.

Since this special issue emerged out of a series of ongoing discussions between the contributors, the themes that drive it are, we believe, clearly reflected in each of the commentaries that follow. We, as editors, want these contributions to speak for themselves, both individually and collectively. We do not, therefore, wish to detain the reader with an overly-long introduction. Here, we simply provide some context for the contemporary emergence of the concept of vulnerability in discourses (both feminist and otherwise) around women’s sexuality and sexual exploitation, before briefly introducing the subsequent articles and their central contentions.

Re-engaging with Vulnerability

During the past twenty years, we have witnessed the proliferation of feminist intersectional analyses of women’s vulnerable location in and across domestic and international legal and political regimes (Crenshaw 1991; Nussbaum 1999). Such analyses focused on particular policy, socio-economic, cultural, legal and political contexts that demonstrated women’s vulnerability due to their subordinate social status. Elsewhere, feminist socio-legal studies has produced trenchant examinations of the dynamics of law as it relates to women’s vulnerability, and in particular in relation to questions of citizenship, sexual and human rights, and the impact of gendered and racialised disciplinary practices on women’s bodies, sexuality and behaviours (Smart 1989; Bridgeman and Millns 1995; Munro and Stychin 2007; Askola 2008). At the same time, in disciplines ranging from geography, to political science and international relations, there has been a proliferation of attempts to theorise human vulnerability (Giddens 1999; Beck 2002; Kirby 2006; Fineman 2008). Lacking in many such accounts, however, has been a critical analysis of the ways in which legal and political actors may have instrumentalised and/or manipulated this concept in the service of broader, and often ultimately contradictory, agendas. As noted above, the aim of this collection is to address this gap in the context of vulnerability to sexual exploitation.

Vulnerability may, as Judith Butler (2004) asserts, be the most fundamental of human conditions that unites us all, albeit that—importantly within feminist analysis—its universality does not entail that it is experienced in the same way, or to the same degree, by everyone. It defines the limits of our common humanity insofar as each and every one of us, at various times in our lives, are dependent or “given over to the will of others” (2004, p. 32). Or it may, as Brian Turner suggests, be a concept whose moral importance

demands that we connect and deploy it legally and politically “with certain human rights” (2006, p. 1). Or it may, as Peader Kirby observes, be a conceptual tool that helps us to “capture the distinctive ways in which the economic, social, political, cultural changes associated with process of globalisation are impacting on us all” (2006, p. 3). Finally, it could be related to changes in the global climate and its impact on the environment. In this regard, our status within a hierarchy of racialised class and gender categories may determine our vulnerability to natural and human-made risks and hazards (Hewitt 1997; Cutter et al. 2003).

Each of these interpretations work in that they capture something of the essence of what it means to be a vulnerable person in the twenty first century. We can accept that being vulnerable is to be human. We can accept that, like it or not, the majority of us are dependent on others. We are, for example, at our most vulnerable when our bodies or our minds succumb to illness. Such vulnerability means that we must submit to the will of doctors, caregivers and our loved ones, if we are lucky enough to have them. Vulnerability has other ‘on the ground’ effects that in Butlerian terms touch us all. For example, our vulnerability to violence and socio-economic marginalisation determines our ability in many ways to retain and maintain our humanity and dignity. Add to this, our vulnerability before the law and the state. In this regard, we depend on institutions of governance to uphold our rights and protect us by recognising our personhood despite our vulnerability. We can accept that at our most fundamental level, we are vulnerable by merit of the fact that we are alive and therefore are connected to others. To this extent, it is safe to assume that vulnerability operates in every aspect of our daily life.

And yet there is also something problematic in this analysis of vulnerability. To speak of vulnerability seems, on a certain level, to suggest that there is something wrong, less-than desirable, about being a vulnerable person. Those who are vulnerable—the poor, the sick, the homeless—frighten us because deep down they remind us of the vagaries of life, of our own mortality and the fleeting nature of our existence. There for the grace of ... go I. It is unsurprising, then, that human beings have gone to extreme measures to eliminate, even deny, vulnerability. The nineteenth and twentieth century eugenics movements are a shameful and extreme example of this ideology. They are, however, worth considering because at certain points in history, the state constructed entire nation-building projects around the elimination of racial and ethnic vulnerability. Margrit Shildrick (2002) examines our fear of our vulnerability via discourses of ‘the monstrous’. She suggests that in this context, our vulnerability to the monstrous is never completely an external experience but ingrained in our own psyche and desire to survive. This desire to banish our vulnerability from the symbolic system that structures our lives and encounters with other bodies “points the way to the fractures and insecurities which render the monstrous both so engaging and disturbing” (Shildrick 2002, p. 9).

The exact meaning, parameters and import of the concept of vulnerability, and the thresholds which determine when it moves from the banality of the human condition to a state of marked precarity that legitimates protection are far from certain. Nonetheless, much recent scholarship on this topic has continued to deploy the concept in under-theorised ambiguous, and unproblematised ways (for exceptions, see Kirby 2006; Munro 2008). Surely when we speak from a personal experience of vulnerability due to

poverty, depression, rape, childbirth, violence or cancer we are doing just that, speaking from an embodied experience of the world and our place in it from which we are forced to confront the limits of our invincibility. Allied to this, our experience of vulnerability, like other human emotions or states of being, is comprised of not one but a range of contexts, emotions, histories and subject positions that intersect with one another to make that experience unique. From this perspective we can understand that vulnerability also encompasses, to varying degrees, fear, anger, marginalisation, pain, poverty or danger. This fact demands that we move away from an understanding of vulnerability that leaves most of the work of interpretation to the imagination of readers, lawyers or policy makers, and move towards intellectual and political frameworks that can accommodate human vulnerability as a complex, shifting and variegated subject position. In furtherance of this goal, the contributions in this special issue seek not merely to deconstruct legal and political engagements with 'the vulnerable' but also to begin the work of reclaiming the concept of 'vulnerability' itself from its frequently under theorised, and thus ambiguous, location within feminist (and other) theory.

In developing this special issue, our aim was to bring feminist scholars into conversation in order to ventilate the concept of vulnerability in a variety of forms. The contributors address what it means to be vulnerable in specific contexts but simultaneously force the reader to confront broader moral and political questions about what it means more generally to be vulnerable, and what response such a condition ought to provoke. Authors take as their starting point the contentious issue of women's vulnerability to sexual harm in the context of people trafficking (FitzGerald; Carline; Kotiswaran), prostitution and neoliberalism (FitzGerald; Cowan; Munro and Scoular; Carline) and bondage and discipline, sadism and masochism (BDSM) (Cowan). These issues are well rehearsed within feminist scholarship and need no further elaboration here (Barry 1995; Hughes 2000; Kempadoo and Doezema 1998; Doezema 2005; Sullivan 2010). It is not our intention in what follows to interrogate these issues *per se*. Instead, each contributor approaches these topics through the lens of how law and politics interact with racialised, class and gendered vulnerability to sexual harm. Authors, in their different ways, seek to provide feminist theory and practice with a pathway into how we might think about the operation of discourses of vulnerability within these specific contexts. They seek to uncover how those who govern use, or could use, discourses of vulnerability to frame an issue, and how such uses might further regressive as well as progressive political and legal agendas.

An Overview of the Special Issue

The special issue begins by providing a critical analysis of the relationship between sex work and neoliberal responses to women's vulnerability. Specifically, Vanessa Munro and Jane Scoular examine the UK government's legal and policy responses to regulating commercial sex work. Their article analyzes the risk categories and interventions deployed in these responses, exploring the ways in which they have extended government actor's ability to regulate those women who persistently sell sex on the streets. Munro and Scoular's article provides a critical reappraisal of some of the 'blind spots' and assumptions that inform current legal and policy

responses to commercial sex work across the UK. Fundamentally, they argue that, particularly when accompanied by neoliberal frames of governance, discourses of vulnerability to (sexual) harm have often paved the way for invasive regulatory interventions that may increase rather than redress women's vulnerability.

Taking a rather different approach to this same context, Anna Carline engages with how the government manipulates discourses of gendered vulnerability through a close reading of the 2009 Policing and Crime Act in England and Wales. In order to do this, Carline explores how government actors produce particular framings of female prostitute's vulnerability. Ultimately, she suggests that this generates certain emotional effects intended to justify other legal and political agendas. She asserts that, while the government draws attention to certain aspects of vulnerability, especially as they relate to human trafficking and prostitution, much of this politicking eschews the conditions that create women's vulnerability to sexual harm in the first instance.

Following on from this, Sharron FitzGerald considers the interplay between the idiom of the vulnerable female, trafficked migrant and the UK government's desire to extend its border control capacity to cooperating 'source' and 'transit' trafficking countries. In particular, FitzGerald approaches the government's anti-trafficking initiatives as part of the racialised and gendered mechanics of governmentality, particularly in relation to migration control internationally. Notable in this context, she suggests, is how government actors legitimise their strategies by invoking women's human rights and its commitment to protecting geospecific populations of vulnerable women from sexual harm.

Prabha Kotiswaran offers a different geographical focus within which to explore further these themes. She considers how the international community manipulates the icon of the "third world" female sex worker. She observes how, in international law, this racialised and gendered figure has compelled the international community to intervene to mitigate her exploitation. Drawing on Martha Fineman's work on vulnerability, Kotiswaran redeploys vulnerability in trafficking debates to depart from its narrative of victimhood and to offer a renewed critique of liberal legalism. This critical appraisal centres on the legal discourse surrounding domestic trafficking in India. She uses this to reflect on the conceptual work that vulnerability can perform both in 'de-exceptionalising' trafficking and in addressing conditions through the lens of labour markets.

Building on these concerns, Sharon Cowan's article offers a unique interpretation of vulnerability to sexual harm located in the interaction of the politics and regulation of selling sex and Bondage, Discipline, Sadism, Masochism (BDSM). Taking recent policy and legal shifts in the UK, she problematises how these trends mark out prostitutes as vulnerable and in need of 'rescue'. Moving beyond this framework, Cowan explores how complex questions of choice, exploitation, vulnerability, power and agency might be thought to arise among women who sell or engage in BDSM sex. Given the existing forms of criminalisation of both prostitution and BDSM, she argues that policy and legal debates are framed by heteronormative and gendered assumptions about power, agency, and the subject position of the buyer and seller. Bringing the special issue full circle by echoing the concerns raised by Munro and Scouler, then, Cowan maintains that, in imposing categories of vulnerability, the state engages in the heteronormative construction of risky sexual subjects who must be rehabilitated, responsibilised or punished.

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