

CALL FOR PAPERS

An Uncomfortable Conversation: The Universal and the Particular -- Vulnerability and Identities II

November 14-15, 2014, University of Miami School of Law

A Vulnerability and the Human Condition Workshop

In recent years, key legal decisions in voting rights, gay marriage, and affirmative action have destabilized the identity-based anti-discrimination frameworks long used to pursue equality and social justice in the United States. The Supreme Court, for example, has been deregulating race, declaring in *Schuette* and in *Shelby* that the state's involvement in the eradication of racial inequality and the protection of marginalized identities is now less imperative. Moreover, the Court seems reluctant to use the language of identity, instead framing gay and lesbian claims in the language of privacy, liberty and dignity. Yet, popular arguments for redistributive and reparative public policies remain steadily focused on traditional identity categories. For example, *The Atlantic* magazine has featured a series of essays on racial reparations to Blacks. Similarly, the #YesAllWomen twitter trend has drawn attention to normalized violence against women, even as the hashtag #SolidarityIsForWhiteWomen created virtual space for feminists of color to question what they perceive to be the dominance of white feminist voices in mainstream culture and gender politics. Amidst these complex legal, social and political changes comes a shift in academic discourse as well, with some critical theorists suggesting that "traditional" identity categories based on individual characteristics, such as race or sex, are inadequate to capture social problems that transcend such categories. Instead, they argue that focus should rest on paired social identities, such as employer/employee or parent/child - categories or statuses that are forged in social and institutional relationships and convey the allocation of legally sanctioned and shaped power and privilege.

These legal and social developments highlight the importance of building on the first Vulnerability and Identities Uncomfortable Conversation to further consider and assess specific identitarian frameworks (including both traditional and social identity formations) as well as more universal paradigms, such as human rights or vulnerability. This second conversation continues an investigation of the relationships between particularity and universality, with an emphasis on the ability of concepts like vulnerability and identity to deepen existing critiques of legal liberalism and advance our understanding of substantive justice. Central to this investigation is an evaluation of the impact of critical theory on understanding the state and its institutions, particularly their role in promoting human resilience through the provision of education, employment and training, healthcare, family structure, cultural recognition, and social welfare more broadly. In considering both the universal and identitarian approaches, we ask how they differently frame systemic disparities in access, opportunity and resources.

****Vulnerability and Resilience**

Background Reading at:

<http://web.gs.emory.edu/vulnerability>

****Workshop Contacts:**

Martha Albertson Fineman,

mlfinem@emory.edu

Charlton Copeland,

ccopeland@law.miami.edu

Mary Anne Franks,

mafranks@law.miami.edu

Osamudia James, ojames@law.miami.edu

****Submissions Procedure:**

Email a proposal of several paragraphs as a Word or PDF document by July 28, 2014 to Yvana Mols, ymols@emory.edu

**Decisions will be made by August 15.

Working paper drafts will be due October 27 be duplicated and distributed prior to the Workshop.

Workshop Details:

The Workshop begins Friday at 4PM -- Room 476 at the University of Miami School of Law (1311 Miller Drive, Coral Gables, FL). Dinner will follow Friday's session. Panels continue on Saturday from 9 AM to 5PM; breakfast and lunch will be provided.

Issues For Discussion May Include:

- What are the relationships between vulnerability and identity based analyses? Between universality and particularity more generally? Are these relationships complementary or inevitably in contestation?
- What are the differences between identity theories based on the harm of impermissible discrimination and identity theories based on conferral of privilege through the structure and functioning of societal institutions? What are the limits and strengths of discrimination as a heuristic in social justice analysis?
- What are the similarities and differences between rights-based universal paradigms and approaches focused on state responsibility generally, such as vulnerability analysis? Are second and third generation human rights approaches similar to a vulnerability approach?
- What are the comparative advantages and disadvantages of using rhetoric of discrimination, rights, and/or state responsibility?
- Can universal approaches to critical theory avoid replicating existing identity paradigms in different forms? Can identity based approaches avoid over and under inclusion? Can they capture societal inequality furthered by doctrine developed outside of traditional areas of equality inquiry, like consumer rights?
- What is lost or gained by a "post-identity" approach to social justice issues? By an identitarian approach? Do vulnerability and other universal frames make the possibility of effective coalitional movements more or less likely?
- How should increased calls in popular culture and media for identity-conscious legal reform and redistribution, like racial reparations, inform both identitarian and universal critical theory? Can either framework effectively navigate debates regarding a focus on class rather than race in reparative public policy?
- How does the state manufacture and maintain the salience of both identitarian and universal critical theory?