CRITICAL EXCHANGE

Situating vulnerability: politics, law, and institutions

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Bridging feminist, legal, and political studies: new perspectives on vulnerability

The notion of vulnerability has been frequently used as a crucial term to describe the human condition in light of the coronavirus pandemic from 2020 onward. The etymology of the term vulnerability can be traced back to the Latin term *vulnus*, which denoted both a 'generic wound' and the 'infringement of a right.' This semantic ambiguity persists in current interpretations of vulnerability, with some seeing it as an ontologic concept (a shared human condition), while others view it as a political and legal category that targets specific groups or individuals exposed to discrimination. The universalistic perspective overlooks the unequal distribution of precarity, failing to acknowledge how it disproportionately affects certain lives. On the other hand, the particularistic approach risks reinforcing the isolation and marginality of those identified as needing protection, neglecting both the agency of these groups as they resist such conditions and the systemic nature of certain forms of violence.

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Conversely, many feminist theorists argue that vulnerability, understood as embodied and relational, remains a valuable tool for mapping the present and tracing the emergence of resistance. Martha Fineman (2008) challenges the liberal notion of the autonomous subject, positioning vulnerability as a fundamental aspect of the human condition. Judith Butler (2020) frames it as an interdependence that extends beyond individuals to encompass human, non-human, environmental, and social relations. Adriana Cavarero (2016) contrasts the verticality of the sovereign subject with the inclined posture, embracing the latter as a relational figure of care, free from normative expectations of autonomy. Marina Vishmidt (2025) warns that focusing on bodies risks obscuring the social processes that produce them, advocating instead an emphasis on social reproduction. Similarly, Estelle Ferrarese (2019) links vulnerability to structural conditions, particularly in cases where individuals fail to meet normative expectations, thus exposing how these norms shape vulnerability itself. Approaching the issue through the politics of care, other scholars situate vulnerability within interdisciplinary studies and social movements.

These feminist perspectives, we argue, reveal a positionality with the potential to transform socio-political contexts. This is especially evident in Deva R. Woodly's work on the Movement for Black Lives (2022), which engages with abolitionist frameworks. Likewise, Verónica Gago (2020), drawing on Spinoza's concept of *potentia* as a collective capacity to act, views vulnerability as a shared condition that fosters alliances and mobilization. This is exemplified by movements like *#NiUnaMenos*, which embrace vulnerability not merely as exposure to harm but as a foundation for collective political power.

The following Critical Exchange attempts to bridge feminist, legal, and political studies and to foster an interdisciplinary dialog by exploring a set of key questions: Can vulnerability be theorized, politicized, and 'juridified' in a way that reflects the diverse and plural ways individuals experience it? How do we understand vulnerability as situated?

Sophie Nakueira takes up these questions by examining the experience of vulnerability in refugee settlements in Uganda. Her analysis reveals the humanitarian field as an extension of the very forces that, albeit inadvertently, perpetuate refugees' injustice and suffering. This occurs using a narrowly defined, universal category of vulnerability, which prioritizes certain forms of suffering while excluding others. In this sense, Nakueira argues, humanitarian institutions function as conduits for sustaining asymmetrical epistemologies of suffering and saving.

Natascia Tosel explores how vulnerability becomes juridified in international and high courts. Rather than a bureaucratic or legalistic tool, it emerges as an unwritten and uncodified fundamental value, invoked by judges and rights claimants alike. As a 'superlegal' principle, the protection of vulnerable individuals takes precedence over formal legislation, illustrating how courts increasingly take on the role of defining the core values of the community and drawing boundaries for legislators. The juridification of vulnerability highlights the growing role of the 'politics of judicial rights protection' as a complement to traditional representative politics.

Woodly and Miranda Young argue that vulnerability as both a concept and condition is multi-faceted. Coerced vulnerability is imposed by the carceral legal system, which forces victims to disclose their harm in specific ways as a prerequisite for

justice. By contrast, intentional vulnerability is a conscious choice that enables one to cross boundaries of difference, with a calculated risk. Finally, Woodly and Young consider a potential third interpretation of vulnerability—as a key to power.

Finally, Valentina Moro explores the conceptual tools of a political theory of vulnerability that is informed by the community-building work of social movements like #BlackLivesMatter and #NiUnaMenos. They adopt a 'margin-to-center' approach to situate vulnerability in the process of constitution of a collective political subject, thus creating powerful counter-narratives. To fully grasp vulnerability in these terms, Moro argues that both political theory and praxis should embrace a paradigm of *difference* rather than equality, while also recognizing that difference is not merely a byproduct of oppression but a fundamental aspect of human experience.

The contributions in this Critical Exchange share the aim of linking vulnerability to institutions, thereby challenging the traditional dyadic relationship between governors and governed, as Foucault would describe it. This perspective brings the fragility of relational dynamics into the institutional space, not as a limitation but as a resource for shaping and transforming it. Rethinking institutions in this way means recognizing them as spaces that inherently embrace conflicts, fractures, fragilities, differences, and needs that demand collective care. In this view, institutions become both the condition for vulnerability's existence and performance, while vulnerability itself provides a framework for creating institutions that truly address and account for the fractures and inequalities within the social fabric.

<div align="right">Valentina Moro and Natascia Tosel</div>

Situated vulnerabilities: contextualizing Uganda's humanitarian system in a broader landscape

How do we understand vulnerability in humanitarian contexts and the forces that shape individual or group experiences of suffering? How should we perceive the role of institutions such as United Nations High Commissioner for Refugees (UNHCR) in humanitarian protection or migration governance? This contribution argues that we need to place institutions and refugees' experiences of vulnerability outside their immediate manifestations in remote settlements and situate them in a broader global context. To address refugees' vulnerabilities, we need to reveal the opaque forces at the global level that shape everyday life in refugee settlements.

This approach departs from conventional ones that view vulnerability purely as located innately within all human beings (Fineman, 2008). I contest UNHCR universal classifications of vulnerability. My claim is that standardized categories obscure how suffering is constructed and sustained in specific contexts, consequently delimiting the efficiency of humanitarian responses. I draw on empirical data from 2020 to 2023 as well as previous field research in a refugee settlement in Uganda from 2017 to 2019. I also draw on secondary literature to interrogate emanating themes.

While dominant conceptions of vulnerability have some merits, they obscure the entanglements of colonial histories, geopolitical agendas, and neoliberal forces that shape peoples' experiences. International relations scholarship has often ignored

the 'structural global North–South inequalities and asymmetries' or 'the institutional and regulative fabric of (power in) migration politics' (Fernández-Molina & Tsourapas, 2024, p. 5). These scholars point out the insufficient acknowledgment 'of the share of international migration power exercised through knowledge and discourse or any critical take on the importance—and arbitrariness—of categorization' (Fernández-Molina & Tsourapas, 2024, p.5).

In doing so, they offer de-contextualized solutions to complex realities that shift responsibility of survival to those whose lives are shaped by 'systemic forces of unfettered neoliberalism, austerity politics, racial inequality' (Crawford, 2021, p. 214 in the context of computation; see Richardson, 2019 on 'ahistoristocal analyses' in health which ignore colonial violence in the Democratic Republic of Congo (DRC) that shape distrust in the Ebola vaccine).

Kate Crawford maps how AI's rapid rise impacts the planet, fuels displacement in DRC, and expands surveillance, placing these issues in a 'wider landscape' (Crawford, 2021, p. 218). In the field of global health, Paul Farmer shows how political and economic forces shape HIV/Aids and premature death in Haiti (Farmer, 2009). These scholars reveal how structural factors render people vulnerable to disease, political violence, and displacement. I contribute to this literature by showing the peculiar ways in which refugees from developing countries embody vulnerability in a refugee camp in Uganda and discuss how their experiences are conditioned long before they arrive in the country.

Focusing on refugees' experiences in Uganda's oldest refugee settlement, this paper situates their vulnerabilities in a broader context. It considers the colonial, geographic, cultural, and political factors that shape refugees' experiences and argues that to understand refugees' experiences and see why institutional responses to vulnerability are ineffective, one has to examine how suffering is constructed, produced, and sustained.

Migration and refugee studies have not provided us with adequate empirical evidence from African contexts on how refugees' vulnerabilities are shaped by both enduring colonial legacies and the agendas of actors influencing humanitarian protection and its outcomes (see Nyaoro, 2019; Richardson, 2019; Fiddian-Qasmiyeh, 2023, for exceptions). This has prompted some to call for 'studying up' structures of inequalities as those in the humanitarian industry rather than 'researching down' the lived experiences of refugees (Farah, 2020 cited in Fiddian-Qasmiyeh, 2023, p. 53).

There is an empirical gap in refugee studies on the actual effects of data practices and surveillance tools on refugees' lives (for exceptions see Madianou, 2019 in Bangladesh; Molnar, 2024 on Greece). Existing scholarship has tended to focus on ethical aspects of testing new technologies on vulnerable populations, while this paper shows the concrete ways in which new technologies reproduce and sustain refugees' vulnerabilities.

Some scholars theorize that power asymmetries between the global north and the global south are shaped by a continuum of colonial relations that cause forced migration (Madianou, 2019). Mirca Madianou uses the concept of technocolonialism to illustrate how technology is tested in refugee contexts as a quick fix to complex problems (Madianou, 2019). Criticizing this approach to addressing refugee problems, Madianou argues that technosolutions serve the interests of distinct actors

like states, international organizations, and private-tech companies (2019, p. 4). She posits that these goals are shaped by competing logics such as security, attracting donor funding, or showing efficiency of humanitarian programs through a focus on statistics. A focus on refugee statistics, undermines intersecting vulnerabilities.

In the context of refugees in Uganda, root causes of displacement, unemployment, insufficient rations for food, and routine surveillance of refugee movements compound experiences of suffering in ways that cannot be solved by data and emerging technology as a stand-alone solution in a poor country which itself relies on aid. I argue that technologies that were introduced to monitor fraud and misappropriation of aid resources have served to monitor the movement of refugee populations. This has impacted policies that were developed to enable self-reliance of refugees and curtails their freedom of movement and residence, effectively, turning Uganda's settlement approach into camps.

Thus, digital platforms such as the Global Distribution Tool (GDT) were used by the World Food Program (WFP) to curb fraud and account for donor aid resources and proGres v4 which stores data of refugees and is an information management system that is used in all UNHCR operations to verify refugee identity during registration and aid distribution. Both digital systems double as tools of surveillance. As such, we should understand them as critical infrastructures that monitor the movements of vulnerable populations through 'regularly repeated social interactions' and 'power-laden relationships' between and among all sorts of actors' (Fernández-Molina & Tsourapas, 2024, p. 6).

From this perspective, emerging technologies that rely on refugee data for better targeting of aid services to vulnerable groups, engender new forms of policing or 'migration governance' by humanitarian aid workers (Fernández-Molina & Tsourapas, 2024, p. 6; Nakueira, 2019). The paradox is that technologies that aim to mitigate vulnerability through better targeting of and accounting for humanitarian resources also serve the interests of states and donors whose interests are migration control of '"undesirable" populations' (Madianou, 2019, p. 6). The result is that these systems monitor and restrict refugee movements through routine biometric verification that function as a form of 'roll call' with disruptions to refugees' livelihoods, residence, and finances (Nakueira, 2022). Disruption happens because biometric verification is conducted in refugee settlements in remote locations that are far and expensive to reach for many refugees who reside outside these settlements (Nakueira, 2022). Those who miss verification three times are perceived as having left the country and are removed from the refugee database—something that refugees misunderstand as a termination of their refugee status.

Furthermore, surveillance tools used in humanitarian contexts are produced by private-tech companies that are interested in advancement of tech capabilities through data (Crawford, 2021; Madianou, 2019). Therefore, since these systems are designed by private-tech actors outside refugee contexts, refugees are not fully aware of how their data is used. Refugees also do not know the extent to which their data is shared with private-tech actors. The collection of refugee data can be understood as a form of extraction of valuable resources from vulnerable populations to serve corporate interests (Madianou, 2019).

Crawford observes that 'Artificial Intelligence systems operate within a complex interwoven network of multinational and multilateral tools, infrastructures, and labor' (2021, p. 195). While biometric devices and the digital platforms used in the humanitarian sector (such as the GDT and proGres v4) are distinct from AI, they share many similarities. They are multinational in the sense that they are deployed globally in several countries where the UNHCR and WFP operate and enable host states to see refugee population movements should they seek asylum in their states. They are also multilateral in the sense that the databases are shareable with other aid organizations.

Moreover, Crawford notes that there is nothing artificial about Artificial intelligence. She traces the supply chain of today's data centers and technologies back to mines from countries in conflict such as the DRC (Crawford, 2021). In the settlement where I conducted fieldwork, the largest group of refugees came from the conflict-ridden, mineral-rich region of the DRC. The minerals of this region are used by tech companies to produce the very technologies that extract data and monitor refugee populations in order to achieve 'competing logics' (Madianou, 2019) of securitization.

Tendayi Achiume posits that emerging technology and borders intersect in ways that 'exacerbate and compound existing inequities…along racial, ethnic, and national origin grounds' (Achiume, 2020, p. 2; Madianou, 2019, p. 4). In African refugee contexts, digital tools often reinforce new forms of vulnerability shaped by western framings. Humanitarian agencies, guided by these constructions, perpetuate suffering by imposing universal categories of vulnerability that overlook local realities and instead serve the interests of donor states. In doing so, they inadvertently exacerbate refugees' experiences of suffering by implementing solutions conceptualized by the global north (Nakueira, 2021).

In Uganda, humanitarian digital tools perpetuate a form of bureaucratic violence through surveillance mechanisms that monitor the movement of refugees through biometric verifications. Viewed in a broader context, they work as 'big data policing' (Ferguson, 2017) or extend 'smart borders' (Molnar, 2023) into territories outside western borders.

Many countries, in East Africa and neighboring regions have been facing ongoing conflict and political instability since gaining independence from former colonial regimes in the 1960s. Despite some of them attaining 'political stability, others remain fairly fragile due to weak economies and continuing conflicts' (Nyaoro, 2019, p. 26), thus a large number of African refugees continue to be displaced.

With over 1,700,000 million refugees, Uganda is the largest refugee hosting country in Africa (UNHCR 2024). It is surrounded by countries in conflict or political turmoil such as Sudan, Somalia, Burundi, Eritrea—with many refugees coming from mineral-rich areas of DRC and the largest population hailing from South Sudan. Since the capture of the Goma region in DRC by the rebel group M23 in February, Burundi—a poor country with very few economic resources and limited land—has received 60,000 refugees from DRC to date (interview with UNHCR, 27 February 2025). Rwanda has received far less refugees, amidst allegations of supporting the M23 rebel group causing current displacement of Congolese refugees.

At the global level, the rise of far-right parties into power and their corresponding anti-immigration/refugee sentiments further complicate the upholding of international norms in western democracies. The USA, Europe, and the UK have recently reduced funding and expanded anti-migration policies. In the U.S., this has resulted in a freeze on USAID funding, disruptions to aid programs and staffing, and the cancelation of resettlement initiatives during President Trump's second term. In the European Union, the 'external migration policy' (Fernández-Molina & Tsourapas, 2024, p. 12) seeks to restrict irregular migration through cooperation with transit states. I therefore intend to situate my understanding of refugees' vulnerabilities within this regional and global political context.

Uganda has ratified the 1951 Convention on the Status of Refugees and has signed the 1969 Convention Governing the Specific Aspects of Refugee Problems in Africa, known as OAU Convention—a very progressive legislation because of its broad definition of 'refugee' in Art 1(2). Refugees in Uganda are allowed to work and are free to move and reside anywhere in the country. However, the majority of refugees live in remote settlements alongside Ugandans and are encouraged to become self-reliant through subsistence farming (Nyaoro, 2019, p. 30) with land provided by the state or host communities. This contrasts with Kenya and Tanzania, where refugees are 'within the territory but not part of any nation building project' (Nyaoro, 2019, p. 27) and guards stationed outside camps restrict refugee movements. Although refugees in Uganda have similar rights as Ugandans (except that they cannot engage in national politics), in practice, refugees' rights are curtailed by limited resources (Andreetta & Nakueira, 2022).

UNHCR and the government of Uganda oversee the protection of refugees and work alongside other international organizations to provide aid to refugees. UNHCR uses vulnerability categories in all its operations. These categories include, elderly, children, pregnant women, people with disabilities, and other subcategories. Only the '*most vulnerable*'' refugees are eligible for humanitarian aid services or resettlement to third countries. In practice, however, who is deemed vulnerable often depends on available resources (Andreetta & Nakueira, 2022), highlighting how certain forms of categorization reflect underlying interests and objectives (Zetter, 2007, as cited in Fernández-Molina & Tsourapas, 2024, p. 18).

Vulnerability categories in Uganda's humanitarian context are arbitrary models of deservingness and their adoption depends on discretion of aid workers (Andreetta & Nakueira, 2022). Yet these categories are crucial because they determine entitlements to critical services and resettlement. Humanitarian classifications of suffering tend to prioritize those deemed 'most vulnerable' by western actors and donors, often excluding individuals whose experiences do not align with predefined categories. This exclusion is especially harmful for populations whose displacement stems from colonial and extractive practices, further deepening their suffering.

Drawing on decolonial scholars, I argue that to understand current experiences of vulnerability, we must situate them within the ongoing 'coloniality of power' (Quijano, 2000), embedded in the structures established during colonialism. In the context of forced migration, these enduring forces continue to shape refugees' experiences of vulnerability. Eugene T. Richardson defines coloniality as 'the matrix

of power relations that persistently manifests transnationally and intersubjectively despite a former colony's achievement of nationhood' (2019, p. 103).

It is no coincidence that many refugees from the DRC who continue to arrive in Uganda and neighboring countries come from the country's mineral-rich regions. Nor is it coincidental that displaced ethnic minorities, such as the Tutsis—who share linguistic and cultural ties with both Rwanda and Burundi—are forced into Uganda due to conflicts with larger ethnic groups within the DRC. These should be understood as a result of the arbitrary drawing of borders that led to the separation of people of the same ethnic group and territory in the precolonial era. The marginalization of Tutsis in DRC has then culminated in the insurgence of their militia group, M23, with the support of Rwanda thus 'point[ing] to the perpetual limitations of the nation-state project as a geopolitical organization' (Nyaoro, 2019, p. 27).

These marginalized populations often flee to neighboring countries with shared colonial histories, which already host large refugee populations and face limited funding and strained resources—further deepening existing vulnerabilities. Paradoxically, the donors of humanitarian aid are frequently former colonial powers or their allies, whose corporations profit from mineral extraction in the very regions refugees are fleeing (Crawford, 2021). This underscores that refugees' experiences of vulnerability do not begin in their country of asylum but are shaped by a series of factors rooted in colonial histories and reinforced by the unequal structure of the global economy. These broader forces intersect with immediate conditions—such as inadequate food rations, poor healthcare, and mental health challenges—and, when combined with individuals' cultural, social, and economic backgrounds, produce complex and uneven forms of vulnerability.

Bureaucratic responses do not adequately address the complex ways in which refugees experience vulnerabilities because they tend to follow UNHCR's universal categories of vulnerability. Donors fund aid programs based on their own specific interests and not contextual realities in countries of asylum. As such, refugees' needs are often insufficiently addressed. This compounds experiences of vulnerability as refugees find themselves 'stuck' in a protection system that does not address their actual experiences of vulnerability and neither adequately meets their basic needs due to funding constraints. During my fieldwork, in 2017, most refugees were frustrated with the inadequate food rations. In 2020, they complained that the monthly cash they received for food could not sustain them (three dollars per month). Some aid workers with whom I spoke raised concern that this was dangerous to refugees' health. They said that refugees were at risk of severe malnourishment and wondered whether donors had any understanding of Uganda's refugee context.

Thus refugees' experiences of vulnerability are worsened by unresponsive and inadequately funded humanitarian operations. Although their bureaucratic architecture follows a holistic approach to vulnerability—meaning that each aid organization, government agencies and refugee community leaders are focal points for identifying 'the most vulnerable' refugees—in reality, the numbers of vulnerable people is too high for the limited resources (Nakueira, 2021). Moreover, many refugees experience vulnerability in completely different ways than was envisioned by the UNHCR vulnerability categories. For instance, I met many people with albinism who complained that they were discriminated against in the

refugee settlement and could not get jobs or were targeted for witchcraft rituals or rape by people from the very countries they fled from. Ethnic minority Twas/Ba Twa from Burundi and Congo experienced vulnerability differently in the camp, having been displaced from their lands in their respective countries. For example, the Ba Twa from Burundi claimed that they could not go back despite an ongoing repatriation of refugees, because they had nowhere to return to after their land had been expropriated. Yet, the voluntary repatriation exercise assumes Burundians to be a homogenous group of people who can return to a peaceful country. People with disabilities complained that they had been wrongly classified as a priori vulnerable. They argued that disability did not mean inability. Instead, they explained that the vulnerabilities they faced resulted from a lack of aids (such as crutches or wheelchairs) that would enable them to access spaces such as schools, aid offices, and did not have medical care for ongoing ailments. Many refugees I interviewed—regardless of their assigned vulnerability category—expressed concerns about limited livelihood opportunities, insufficient food, and inadequate healthcare in the settlement. These overlapping challenges compounded to make daily life difficult for the majority.

Consequently, we see how refugees' experiences stem broadly from economic, health, and cultural factors and not simply political instability in their countries. These intersecting factors are shaped by the 'enduring legacies' of colonialism and capitalism (Madianou, 2019). Interviews with interlocutors did not begin with their experiences of suffering from the country of asylum. Rather, refugees narrated the trauma they experienced and how their lives had been disrupted causing them to lose jobs and families from their countries of origin. At times, these included their experiences in neighboring countries in which they had sought refuge before fleeing again to Uganda. This is the case of interviewed Burundians who had been displaced in Rwanda, fled during the 1994 genocide, and were shortly after forcefully repatriated from Tanzania. This suggests that, in order to understand the various experiences of suffering and complex ways in which refugees experience vulnerability, these experiences must be situated in the temporal, political, and geographic contexts that shape their concrete experiences.

Uganda, like other refugee hosting countries that are poor, is hosting large numbers for prolonged periods without sufficient funding with detrimental effects on refugees. Yet bureaucratic responses often focus on short-term life-saving relief in emergencies, in contrast to what is needed to mitigate intersecting vulnerabilities in countries with protracted refugee situations such as Uganda. While this is in line with the Comprehensive Refugee Response Framework and 2016 New York Declaration which prescribe a short-term humanitarian assistance with long-development nexus approach to aid, it exacerbates the vulnerabilities of refugees in protracted situations.

Upon arrival in Uganda, refugees register through biometrics and their biodata (which includes iris scan, fingerprints, and photo) is fed into UNHCR's systems. Based on the refugee's profile, they are designated into vulnerability categories based on age, gender, and diversity (AGD). This data is stored in a database that other aid organization can access. While refugees consent to their data being taken for purposes of aid provision, they do not know that their data can be used to exclude

them from aid services for not being vulnerable enough. They could even be denied asylum in other countries.

I argue that we should understand vulnerability categories as core part of the infrastructures that produce and entrench vulnerabilities. Practices of assigning and classifying displaced populations are part of humanitarian and state bureaucracies. Designations of asylum seeker and refugee grant people different rights and entitlements. In humanitarian contexts operated by UNHCR, people are further classified into different groups such as elderly, women-at-risk, people with disabilities, children, etc. These classifications are critical, as they feed data into technological systems that govern and manage refugee populations within humanitarian operations. However, its use in targeted programming can be dehumanizing, reducing refugees from individuals with unique needs to mere statistics. While such data holds value, it often obscures the intricate entanglements between state- and private-tech interests (Crawford, 2021; Madianou, 2019).

Situating vulnerability in a broader landscape is vital to capture the nuanced ways that refugees experience suffering. As discussed above, vulnerabilities are simultaneously produced and sustained by colonial histories, geographies, economic, and political contexts which map onto refugee's individual characteristics in complex ways. Standard vulnerability categories are too narrow and too neat for the complexity shaping every day challenges in humanitarian contexts.

Refugees' concrete experiences in countries of asylum are a manifestation of the manner in which these different factors intersect with refugees' innate characteristics (such as age, gender, ethnicity) and socioeconomic standing to complicate everyday life. By situating vulnerability in the *longue durée,* this contribution showed the 'matrices of power' (Richardson, 2019) that interact to advance coloniality in the humanitarian sector—further vulnerabilizing refugee populations. This is evident in the way the humanitarian system denotes the universal manner in which refugees *ought* to be vulnerable. By imposing specific vulnerability categories at the expense of complex contextual realities, Uganda's humanitarian system produces new forms of vulnerabilities and exacerbates disparate forms of suffering.

Although, aid is for displaced populations, the system mainly benefits international aid organizations, donor states, and various actors who benefit from refugee data, and advance their geopolitical interests through the displacement and containment of displaced populations. From this perspective, refugee settlements are sites of contestation where powerful actors with diverse agendas deploy them as spaces to achieve broader goals. As such, they are 'expressions of power that emerge from wider economic and political forces' (Crawford, 2021, p. 211) and through which 'symbolic violence' (Richardson, 2019, p. 107) is inadvertently meted by the humanitarian aid system.

<div style="text-align: right">Sophie Nakueira</div>

Neither a law nor a right: vulnerability as a superlegal value

The juridification of vulnerability (Catanzariti, 2022; Leboeuf, 2022)—namely, the translation of the concept into the legal framework and the language of

rights—is often depicted today as a failure. Initially a significant scholarly strand envisioned a revolutionary role for the legal use of vulnerability, arguing that it had the potential to both replace the liberal and autonomous subject of the liberal tradition with a more vulnerable and interdependent notion of legal subjectivity and to achieve more substantive equality (Fineman, 2008; Grear, 2010; Turner, 2006). However, an examination of the legal development of the concept over the past few decades suggests that neither of these goals has been achieved. On the contrary, the juridification of vulnerability has led to several significant problems, as the contributions to this critical exchange suggest.

On the one hand, as Sophie Nakueira points out in this Critical Exchange, the process of juridification coincides with an increased bureaucratization and standardization of the concept of vulnerability. The latter is reduced to a mere selective tool for identifying the 'most vulnerable' among the applicants in the same procedure—such as asylum seekers—who thus receive a kind of priority (Leboeuf, 2022; Nakueira, 2021). In this case, vulnerability loses its context-sensitive nature and instead becomes a rigid formal standard that produces exclusionary effects and reinforces a binary division between the 'vulnerable' and the 'non-vulnerable.' On the other hand, as a consequence of this bureaucratic formalization, the reliance on vulnerability by social actors who attempt to translate social and political issues into the language of rights—and thereby make them subjects of legal dispute—often proves misguided. Once vulnerability enters legal and judicial reasoning, it risks functioning as an identity category that essentializes, stigmatizes, victimizes, and paternalizes certain groups or individuals, presenting them as in need of special protection (Peroni & Timmer, 2013). This is what Woodly and Young, in their contribution, propose to label as 'coerced vulnerability'—that is, the use of the concept as an institutional response to recognize the powerlessness and exposure to violence experienced by certain social actors. However, this approach runs the risk of institutionalizing and reinforcing such exposure rather than repairing it.

The failure of the juridification of vulnerability is thus primarily identified as twofold. First, its formal dimension—that is, the codification of the concept into rigid legal norms and bureaucratic procedures—is contested. Second, its actor-centered dimension—namely, the reliance on vulnerability as a legal tool for addressing rights violations by social actors—is considered counterproductive. This contribution does not seek to add to this already well-developed criticism. Rather, its purpose is to briefly outline another dimension of the juridification of vulnerability that has been largely underappreciated in the current debate but is particularly relevant in the context of international and high courts. While existing discussions focus primarily on the formal and actor-centered aspects of the phenomenon, there are also material and institution-centered dimensions that are increasingly shaping the current trajectory of juridification. In a previous article, Mariano Croce and I provided a detailed analysis of this new trajectory, which we propose to label 'the politics of judicial rights protection' (Croce & Tosel, 2024). The present contribution builds on that work and complements it by exploring vulnerability as a paradigmatic example of how international and high courts supplement traditional representative democracy with a juridified form of politics.

While the introduction of positive obligations for states is increasingly justified by international and high courts through reliance on the concept of vulnerability, there is no explicit definition of the term in either human rights charters or international treaties. As many scholars point out, vulnerability lacks a statutory definition; consequently, its legal meaning, as well as the legal consequences it entails, are subject to variation and have often been considered inconsistent (Boutier, 2024). In the jurisprudence of the European Court of Human Rights (ECtHR), for example, the concept of vulnerability has been applied—with increasing frequency since the early 2000s—in cases involving violations of a wide range of articles of the European Convention on Human Rights (ECHR). It has been related to issues ranging from conditions of detention to the status of refugees, the protection of private life and fundamental freedoms, and the prohibition of discrimination against minorities. The concept applies to both individuals and groups, considering physical, social, and cultural conditions.

Despite being used in such a heterogeneous manner, two key elements characterize the ECtHR's application of vulnerability. First, vulnerability is not formally defined in relation to a specific right or law but remains an 'uncodified concept' in the Court's jurisprudence. In this sense, vulnerability can be seen as 'the triumph of a non-formalistic juridification' (Catanzariti, 2022, p. 1411). Second, precisely because of its lack of statutory content, the ECtHR treats vulnerability—and the corresponding obligations of protection and carefulness it entails—as a self-evident principle. As some scholars have recently emphasized (Besson, 2014; Ippolito, 2020), vulnerability plays a normative and material role in human rights jurisprudence. This means that it is increasingly recognized by international and high courts—not only the ECtHR, despite the latter remains a particularly illuminating example—as an unwritten and implicit principle underlying the normative framework of human rights.

This understanding of vulnerability is crucial for determining its performative function in international law. Indeed, if vulnerability is conceived as a principle rather than a rule—and more specifically, as a principle that derives not from positive or customary norms but from the expression of a shared and fundamental value embedded in the life of the community—then it holds a non-derogable and peremptory function. As Riccardo Pisillo Mazzeschi and Alessandra Viviani (2018, p. 121) explain, 'principles have a dimension that rules do not have: the "weight" or "importance" dimension. When principles conflict with each other, the interpreter or judge must "balance" their relative weight.' In other words, when vulnerability is understood as an unwritten principle that expresses a fundamental value of the community, it takes precedence over positive law because it is deemed to be of higher importance.

Croce and I have referred to the status of this higher law as 'superlegality.' The term is drawn from the work of the French jurist Maurice Hauriou, who was the first to define superlegality as the set of constitutional principles whose legitimacy is superior to that of statutory law. Notably, superlegal principles do not require explicit verbalization; that is, they are not fully determined in their positive content. However, since they embody the fundamental values of a constitutional legal order, their legitimacy prevails over any form of written law, including both ordinary

legislation and the written constitution itself. This appears to be precisely the case with vulnerability in ECtHR jurisprudence: the concept lacks a clear definition and formalized positive content. For instance, in the case *Ilias and Ahmed v. Hungary* (2019)—which concerned the detention conditions and asylum procedures faced by two Bangladeshi nationals at the border and their subsequent expulsion to Serbia— the Court was explicitly urged to provide a definition of vulnerability. However, it declined to do so. Instead, the ECtHR reaffirmed its reliance on the function of the category within its existing jurisprudence—a function that can be seen as that of a superlegal value.

Indeed, in the landmark 2006 *Mubilanzila Mayeka and Kaniki Mitunga v. Belgium* judgment, the Court explicitly articulated its approach to vulnerability as a superlegal source of law. The case concerned an unaccompanied Congolese girl who entered Belgium illegally at the age of five and was subsequently detained and deported. The ECtHR described the applicant's situation as 'extremely vulnerable' due to a combination of factors: 'her very young age, the fact that she was an illegal immigrant in a foreign land and the fact that she was unaccompanied by her family from whom she had become separated.' The Court further emphasizes that 'it is important to bear in mind that this [the applicant's vulnerable situation] is the decisive factor and it *takes precedence* over considerations relating to the applicant's status as an illegal immigrant' (*Mubilanzila Mayeka and Kaniki Mitunga v. Belgium* 2006, para. 55, my emphasis).

By detaining the applicant in a transit center and subsequently repatriating her to Congo—treating her as an illegal immigrant despite her extremely vulnerable condition—the Belgian state failed to 'take adequate measures to provide care and protection,' which the Court explicitly recognizes as a 'duty' toward 'vulnerable members of society' (para. 55). In short, the protection and care that vulnerability entails function as superlegal and normative values that take precedence over compliance with any other positive legislation, including immigration law. In the *Mubilanzila* case, as well as in numerous other judgments in which vulnerability is invoked, this principle prevails over competing legal considerations, resulting in favorable rulings for applicants challenging state actions. However, as previously noted, this does not eliminate the risk of applicants being subjected to victimizing or paternalizing treatment by the Court. As I will argue below, the fact that vulnerability operates as a superlegal value rather than a codified legal norm has significant implications—not directly for the social actors who appeal to the law, but more prominently at the institutional level, particularly in the interplay between parliaments and courts.

The use of vulnerability as a superlegal value raises a fundamental question about its performative function in human rights politics. How does vulnerability operate as a normative principle underlying constitutional and fundamental rights, and how does this function differ from that of other written positive law? An answer to this question can be found in *Chapman v. United Kingdom* (2001), a landmark ECtHR case concerning vulnerability. The case involved the Gypsy community, recognized by the Court as a minority group whose particular lifestyle requires special consideration—both in the regulatory framework and in the adjudication of individual cases. The ECtHR ruled that facilitating 'the Gypsy way of life' constitutes a positive obligation for the State.

Furthermore, the Court asserted its role in supervising whether this obligation—and the broader protection of minority rights—is upheld by national legislators. Notably, the Court observed that an emerging international consensus among the Council of Europe member states recognizes the special needs of minorities and the obligation to protect their security, identity, and lifestyle. However, the Court also acknowledged that this consensus was not sufficiently concrete to provide clear guidance on how states should act in specific situations. As Corina Heri (2021, p. 157) points out, it is at this juncture that 'the Court held that, though it was unable to find a consensus on minority protection that was concrete enough to allow it to identify clear standards, and though its own role was a "strictly supervisory one," there was a standard by which it could judge the actions of the government: the affected group's vulnerability.'

Put differently, *whenever a Government completely omits to consider the particular vulnerability of an individual rights-holder, it will not be able to pass the Strasbourg proportionality analysis* (Timmer, 2013, p. 165, emphasis in the original). As a superlegal principle, vulnerability is removed from the discretion of national legislators. It cannot be ignored and not even violated by ordinary provisions (Maués, 2013). However, this implies a profound resetting of the inter-branch dynamics of liberal democracies. As Antonio Cassese (2005, p. 189) emphasizes, 'courts have played and are increasingly playing an essential role: they identify and set out principles "hidden" in the interstices of the normative network, thus considerably contributing to the enrichment and development of the whole body of international law. It cannot be denied that by so acting courts fulfill a meritorious function very close to, and almost verging on, the creation of law.'

In a nutshell, courts are increasingly taking on the dual role of spelling out the foundational values underlying basic and human rights—such as vulnerability—and ensuring that legislative actions conform to these superlegal principles through mechanisms of judicial review. As a result, the superlegal principles identified by the courts (primarily international and supranational courts) become legally binding on all national state organs. Vulnerability is an illuminating example of how this new inter-branch dynamic, which Croce and I call 'the politics of judicial rights protection,' operates. Vulnerability is becoming one of the most important normative values that allows the international and high courts to judge the activity of the state institutions. While we disagree with the idea that Cassese seems to suggest—namely, that the judiciary replaces parliaments in the creation of law—it is undeniable that courts are setting boundaries on legislative activity, thereby challenging parliamentary sovereignty. Vulnerability thus emerges as a paradigmatic case of the broader shift within Western liberal democracies toward a new, juridified form of politics—one that does not entirely replace traditional representative democracy but increasingly supplements it.

This new form of politics requires further analysis, particularly regarding the challenges it poses to the traditional definition of liberal democracy and its potential to compete with other political trajectories that currently threaten parliamentary supremacy—especially the executive-driven and populist forms of government that are gaining power in both Europe and the USA. The brief overview of this new institutional dynamic presented in this contribution, however, aimed primarily to

emphasize that the performative function of the juridification of vulnerability is ultimately far more political than merely legal.

<div align="right">Natascia Tosel</div>

Faces of vulnerability

In this contribution, we reflect on the multiple faces of vulnerability to advocate a unique way of building 'political friendships,' one that emphasizes what Çiğdem Çıdam calls, 'the intermediating practices' that produce new relations (Çıdam, 2021). Theorists before us have documented vulnerability's conflicting and diverse nature. Vulnerability is seen as a condition to be avoided, a state that often leads to extraction, appropriation, and violence. At its most extreme, vulnerability is equated with powerlessness—the inability to exercise influence or make decisions that govern the self. Most of western political philosophy assumes that independence and freedom correlate with one's degree of invulnerability to the will, desires, and dependence of others. However, vulnerability as a concept and condition is multifaceted. When vulnerability is an intentional part of intersubjective relation, it can be a unique source of attention, intimacy and pleasure, and through those experiences and the disposition they engender—it can also be a source of connection and power within a polity (Gilson, 2011, p. 310). Vulnerability can exhibit the willingness to share intimate and private worlds. Without vulnerability, many of the meaningful aspects of our lives would not exist. These contrasting qualities of vulnerability mark its ambivalent nature. In what follows, we seek to reflect vulnerability's multi-faceted visage, presenting the spectrum of what vulnerability means and has to offer to our political understandings.

   Below, we first discuss the face of vulnerability that we call coerced vulnerability. Coerced vulnerability describes an experience that emerges when we are forced to seek restitution or reparation for harms done to us from authorities that have no obligation to understand what ensures our well-being. The current criminal legal system and its underlying logic of carcerality, relies on and enforces this type of vulnerability. In this case vulnerability is mandated as a precondition for addressing harm via punishment. This dynamic operates both interpersonally and structurally. It is the demand for the disclosure of victimhood that requires a confession of the right kind of harm in the right kind of way. This demand must often be met before it is possible to access any tools to mitigate harm or assist in recovery. Coerced vulnerability is to be avoided but it is not the only functional aspect of vulnerability. Next, we identify another face of vulnerability that we call intentional vulnerability. This form of vulnerability is a practice of connection, involving actively choosing to allow another to witness you in a way that enables you to cross boundaries of difference. Understood this way, vulnerability is a decision made to share a bit of oneself that is not without risk, but the risk is calculated, ventured with the expectation that the interlocutive parties will answer by 'bearing witness to something beyond recognition,' which opens the door beyond the recitation of harm and makes room for 'working-through,' new circumstances and perspectives as agents (Oliver, 2001,

p. 8). We conclude by reflecting on a potential third face of vulnerability, which is vulnerability as a key to power. This sort of vulnerability emerges from practices of intentional vulnerability.

Coerced vulnerability is the condition that one enters into when trying to receive care or resources from institutions that dispense them only to those it deems worthy of receiving it. Coerced vulnerability is exemplified by the ways victims of crimes and violence are recognized by state institutions. For example, those who experience gender and sexual violence are apprehended in very specific ways by the criminal legal system in the U.S. These forms of violence tend to emerge and proliferate in conditions of structural vulnerability and precarity that reproduce physical vulnerability (Doob, 2012). Many feminist philosophers have documented extensively the ways in which vulnerability is both the cause and consequences of gender and sexual violence. To be subject to gender violence—whether physical, emotional or sexual—is to be put into a state of vulnerability. But it also renders one into a state of continuous precarity. Susan Brison articulates extensively the vulnerability of negotiating the psychological effects of post-traumatic stress disorder, as it tends to produce embodied responses (Brison, 2002, p. 71). Those who experience gender and sexual violence are also vulnerable to the communities around them, since they need to rely on their communities to live in the world after the fact. Survivors are forced or choose to, for a variety of reasons, narrate their experiences to multiple audiences. The conditions of reception are often hostile and skeptical and the survivor is vulnerable to their community's uptake of their stories.

In our legal structure, we have institutionalized coerced vulnerability by creating avenues that compel disclosure of experiences in order to receive care from the state. This structured vulnerability purports an avenue of care for those who disclose, but there are often new forms of vulnerability that open up through that disclosure. Let's consider the perspective of someone who has experienced sexual violence from a family member. Many survivors are married to their abusers and depend on them for housing or income. These precarious economic conditions are often the reason why people remain in harmful conditions. In New York, the state does offer some support for people in this situation through victim's compensation, which is money to help the survivor negotiate the abuse.

The New York Office of Victims Services was developed after Congress passed the 'Victims of Crime' act in 1984. This was a federal law which established the Crime Victims Fund, which provides states with funds to assist those who experience violent crimes and need assistance with receiving care and necessities to protect themselves (money for rent, therapy, funeral services, etc.). At the heart of the aid is care: the central slogan on the banner of their website is 'helping victims become survivors.' The Office of Victim Services has a three-pronged approach to its identity as a state resource. Firstly, it is an advocacy program, it offers direct services such as 'counseling, legal help, and emergency shelter for domestic violence victims, across the state.' Secondly, it operates as a source for education, in that it operates to dispense knowledge of its specific avenues for aid and resources. It also contains an organized database of different community and non-profit organizations that aim at supporting victims of multiple types of violence. And thirdly, it is a source of monetary compensation. That is, victims of multiple forms of violence

are able to file a claim that will determine their eligibility for sources of funding. However, in order to receive funding from the state, the victim is asked to upload documentation from law enforcement. So, filing a police report is a necessary condition for the victim to be eligible to receive compensation. This is a common requirement in most state jurisdictions. In fact, in May of 2023, New York became one of the only states to enact legislation to undo this requirement. Beginning in December of 2025, victims will no longer be required to disclose police reports in order to be considered for funding.

This legislative change was, undoubtedly, a huge win in a variety of ways. Filing a police report is one of the largest barriers to a victim receiving state compensation. Black women are systemically subjected to violence by the police, sexual, or otherwise. Undocumented women are situated in communities that are vulnerable to legibility by law enforcement, as they risk deportation of their loved ones if they go to the cops. Sex workers face imprisonment or criminalization if they report to the police. When state legislatures tie together law enforcement and victim compensation, they are guaranteeing the continued vulnerability of many of the victims of sexual and gender violence.

In this example, coerced vulnerability is used as an official solution to the powerlessness and exposure experienced by survivors of gender and sexual violence. However, it compels a new kind of exposure to violence and deprivation by mandating interactions with police. Survivors are shoved into impossible situations and forced to render themselves and their communities vulnerable to police violence for the sake of addressing the sexual or gender violence causing them to pile one form of violence atop another.

Our current political institutions reproduce practices of coerced vulnerability—the compulsory exposure of one's victimhood. Instead of seeking the truth and complexity of their experience, their agency and will, or ways to mitigate the consequences of harm and help them live and thrive, coerced vulnerability seeks to fit the victim into a regulatory ideal that demands submission to, what is for many, further abuse. This sort of paradoxical movement of coerced vulnerability parallels what Sophie Nakueira identifies in her contribution as vulnerability categories that 'produce and entrench vulnerability.' Nakueira identifies how the ameliorative bureaucratic designations of vulnerability both reproduce suffering for those in that category and create new vulnerabilities for people who do not fit in the official categories. But vulnerability is also a practice for articulating one's experiences in such a way that they cross a boundary of difference with another, we call this intentional vulnerability.

Intentional vulnerability focuses on practices of connection across differences, and the ways those practices condition political action. The idea of vulnerability as a necessary component of human connection is not new. Judith Butler and Erinn Gilson, each in their own way, develop a consideration of vulnerability that claims it the conceptual scaffolding of our self-understandings and investments in the world. Judith Butler has described it as a felt experience that enables us to conceptualize the intersubjective character of our selfhood. Butler argues 'What I am suggesting is that it is not just that this or that body is bound up in a network of relations, but that the body, despite its clear boundaries, or perhaps precisely by virtue of those

very boundaries, is defined by the relations that make its own life and action possible' (2016, p. 16). Gilson argues that it is a fundamental state of relation, defining it as an 'openness to be affected and to affect' (2011, p. 310). For both Butler and Gilson, vulnerability becomes the sort of thing that leads toward the development of an obligation toward each other. Audre Lorde pushes beyond vulnerability as constitutive of human subjectivity and sociality and conceives of it as a potential political resource, arguing that it can be the basis for political friendship or what she calls 'relating within equality' (Lorde, 2007, p. 122). Relation within equality is only possible when we understand our political relations with others as necessarily a site of growth which necessitates the sharpening of 'self-definition by exposing the self in work and struggle together with those whom we define as different from ourselves, although sharing the same goals' (Lorde, 2007, p. 123). This implies that there is a practical dimension to vulnerability that emerges out of intersubjectivity. Vulnerability is a means toward action, and for our work, intentional vulnerability is one practice that emerges from this constitution.

When vulnerability is both recognized as a social fact and intentionally chosen as a mode for relating to others, especially across differences, then it is a powerful means of connection. Vulnerability is not a property of the individual, but it is a characteristic of a relation, one that can be positive or negative, reifying hierarchy or breaking it down. Joy James has articulated the ambivalence of this relation through her concept 'the Captive Maternal' which she identifies as a function of oppression (James, 2023). The Captive Maternal is 'those most vulnerable to violence, war, poverty, police, and captivity; those whose very existence enables the possessive empire that claims and dispossesses them' (James, 2016, p. 255). The Captive Maternal describes a social function of gendered practices such as 'care taking, sacrifice, and resistance' that emerges as part of the social reproduction of the twin dominations: imperialism and anti-blackness. The Captive Maternal describes a functional coerced vulnerability—in that the lives, labor, and children of Black women are consumable for the continuation of the form of life sustaining western neoliberalism, but not without encountering the ongoing agentic activity of their resistance. The Captive Maternal elucidates a quality of the delicate balance which is a reality of political vulnerability. That the vulnerable can be both subjected to extraction by dominative institutions *and* subjects who function as creative and effective community builders and care workers.

Alexis Pauline Gumbs describes an intentional practice of vulnerability-as-connection that she calls a 'motherful' approach to social relation and political action. A motherful approach is one that is concerned with 'the practice of creating, nurturing, affirming, and supporting life,' not via especially or exclusively biological or heteronormative practices, and not as a gendered identity, but as 'a possible action, a technology of transformation' that 'is about pouring into a situation, a context, without knowing what will emerge,' but with the conviction that relationships are a source of power that can sustain, nourish, and change us (Gumbs, 2016, pp. 22–23). A motherful approach guides us to ask the question: 'what is the most life giving choice? What is the most nourishing choice that can sustain us for the long term?' (Gumbs, 2025). In this case, we might think of vulnerability, when it is intentional rather than coerced, as a method.

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Intentional vulnerability as a method asks us to both recognize and cultivate the unexpected and powerful possibilities that open via what Lorde (2007, p. 57) calls 'self-connection shared.' Self-connection shared can grow out of the revelation of harm but it neither relies on nor requires confession, it can as easily be made by the 'sharing of joy, whether physical, emotional, or psychic, which forms a bridge between sharers which can be the basis for understanding much of what is not shared between them, and lessens the threat of their difference' (Lorde, 2007, p. 57). Although Lorde calls this self-connection shared, 'the erotic' (Lorde, 2007, p. 54), it is not a state which arises either exclusively or necessarily via romantic or sexual relations. It is instead a disposition toward discovery, avidity, and wholeness. It is the impetus within each of us not to settle for 'suffering and self-negation, and with the numbness that so often seems like the only alternative in our society' (Lorde, 2007, p. 58).

Practices of intentional vulnerability are constituted by two distinct moments. The first is the deliberation, what we call a calculated risk, and the second is witnessing. Coerced vulnerability as we have outlined, tends to equip subjects with knowledge or rubrics to make calculated risks. For example, think about the ways we tend to speak about navigating different social systems. Often, when someone shares a story of violent conflict they have had and describes the social service they went to for help (to receive unemployment from the department of labor, to work with their local rape crisis center, or to report a crime, etc.) they end the story with a lesson: 'and that's how I learned how to navigate the difficulties of (x) institution or (y) social system.'

When we get caught up in navigating social systems that supposedly dispense care and justice we become situated inside of a function of coerced vulnerability. Yet, we become equipped with a special form of expertise and know-how by having to navigate these institutions. We develop knowledge on how to interact with cops, how to engage social services without rendering our communities legible as criminals, who to trust with information, and who not to trust, what to put in writing, what to keep out of writing. This is the sort of know-how developed inside the functions of the Captive Maternal and coerced vulnerability, and it becomes the matrix through which one calculates their risk in practices of intentional vulnerability. This becomes the data that one examines when considering whether to act out practices of intentional vulnerability. So, although intentional vulnerability is about connection, the connection emerges as a result of practical rationality, which weighs the pros and cons of vulnerability. Intentional vulnerability as a method of interpersonal and political relation is a way of taking a calculated risk to share something significant in order to connect across a difference and feel your intersubjective nature.

This calculated risk is met on the other side by the activity of witnessing. Witnessing is a process of communication that is characterized by what Kelly Oliver calls 'address-ability and response-ability' (2001, p. 16). Oliver argues that witnessing is an alternative framework for conceiving of subjectivity, beyond recognition. She asserts that witnessing as a framework for ethical relations makes use of the productive tension between being an eyewitness and bearing witness—it is the practiced animation of the tension between 'the juridical connotations of seeing with

one's own eyes and the religious connotations of testifying to that which cannot be seen' (Oliver, 2001, p. 16).

Domination and oppression work to damage and destroy subjectivity—to turn subjects into objects who have been acted upon but who are not understood to have the opportunity or capacity to act. Subjectivity that is developed, honored by, and repaired through witnessing, on the other hand, relies upon a reciprocity of address and response that is characterized by both attentive vigilance and openness to the unexpected, to otherness, difference, ambivalence, and uncertainty. Witnessing is generative because its purpose is to leave room for understanding something new and learning how to act from those new understandings. The subjectivity nurtured via the relation produced by witnessing is one that is open to transformation. It is not one that fits well with practices of domination that are regular features of coerced vulnerability. Domination requires a tyranny of similarity—the flatness of pro-scribed roles and entrenched and unchangeable opposition. Witnessing necessitates the awareness of particularity in context. Static relationships of hierarchical recogni-tion are the conditions that permit control and make domination make sense—that is, help people understand and live into dominated, marginalized or simply highly prescribed subject positions. Witnessing enables a *Gestalt* shift, a change in per-spective; it is the movement from seeing the duck to the rabbit, in the classic Witt-genstinian example. The old relations of power that seemed insurmountable sud-denly shift and new characteristics become visible, new normative pathways appear, and new possibilities for action are suddenly present. Witnessing allows us to attend to differences in social position and experience in ways that don't attempt to flatten or assimilate them but instead can apprehend a plethora of responses, ways of seeing and 'working-through' that map new ways out of, past, and through domination with an agency that is manifest in the interactions characterized by intentional vulnerabil-ity. Witnessing has within it the capacity to make real 'what is beyond knowledge and recognition,' that is, of the possible. It is a way of relating that more easily inter-polates difference as resource and potentiality, making room for natality, ungovern-ability, and transformation.

This reciprocal interaction, undertaken with motherful attention, is an adaptive and complementary practice that is not transactional and need not be equivalent. One chooses intentional vulnerability with the expectation and purpose of creating new possibilities for relation, understanding, and action. As Gumbs (2016) notes, 'the energy of mothering is about pouring into a situation, a context, without know-ing what will emerge. It's a loving offering. We don't know what's gonna be cre-ated.' The capacity cultivated by self-connection shared is able to overcome 'the fear that we cannot grow beyond whatever distortions we may find within ourselves.' This fear, 'keeps us docile, loyal, and obedient, externally defined, and leads us to accept many facets of our oppression' (Lorde, 2007, p. 122). This is the fear that cynically advises, 'it is what it is.' Intentional vulnerability opens a path beyond that fear because it is a way out of isolation and repetitious accounting via the act of witnessing. It introduces the possibility of 'working-through,' of responding in ways that open up new pathways for understanding and action rather than reverting to cul-tural scripts and foreclosing the ability to be attuned to and address the unique, 'the unfamiliar and disruptive' (Oliver, 2001, p. 2). In this way, intentional vulnerability

can provide both the impetus for people to take the chance that perhaps it could be otherwise between us and among us, as well as in the world we make and share.

Intentional vulnerability as a face of power, moves beyond force, decision-making, or ideological power and toward the obvious but under theorized power of connection (Lukes, 2005). Connection is the element of power upon which collective action is based, one that allows us to approach politics from a fundamental understanding of intersubjective interdependence. The practices that arise from this acknowledged interdependence lead us toward the creation of new life ways and new worlds. We know them because we've seen them or we've heard about them. It is the sort of thing that happened in 2024, when Hurricane Helene had decimated the mountain ranges of North Carolina, and one of the first groups to provide aid with resources, generators, was a queer mutual aid organization known as the Pansy Collective. Affected communities trusted and worked with the Pansy Collective over some of the governmental institutions offering aid (Soper, 2023). It's the kind of thing that Valentina Moro described as a 'choreography of care and vulnerability' in her analysis of *Ni Una Menos*' performances in the public square. Moro shows in her piece how NUM demonstrated a binding attention to well-being with the dynamic of collective strike. Another example was during the Los Angeles fires in January of 2025. When the forest fires scorched tens of thousands of homes in predominantly Latino, Black, and Asian neighborhoods in San Gabriel Valley, mutual aid groups providing food, shelter, and facemasks were immediately on the scene and highly active. These efforts were effective and well-coordinated providing most of the resources for the survivors in the immediate aftermath of the fire (Mitchell, 2025).

Our differences in structural position and lived experience are too often seen only as obstacles toward this kind of collective action. But we echo Lorde's warning that, 'we have all been programmed to respond to the human differences between us with fear and loathing and to handle that difference in one of three ways: ignore it, and if that is not possible, copy it if we think it is dominant, or destroy it if we think it is subordinate. But we have no patterns for relating across our human differences as equals. As a result, those differences have been misnamed and misused in the service of separation and confusion' (Lorde, 2007, p. 115). For Lorde, to relate 'within equality' requires taking our differences in structural position, experience, access to power and resources, and divergences in social mores and meanings into explicit account in our assessments about what our political projects are and ought to be. The difference Lorde details is not akin to liberal notions of diversity. It is not incidental variation that must be tolerated or celebrated, but is instead a source of information about the most persistent systematic impediments to people's ability to live and thrive as well as the fund of creativity that people must draw from in order to remove those impediments via refashioning the world we share.

It is through the practices of intentional vulnerability and witnessing that we find ways to relate across difference that can lead to new political friendships, opening up new pathways for action, and new ideas for obtaining power and influence that break from scripts that put force and coercion in the forefront (though those options are still on the table, they do not monopolize our attention). This newness is akin to the opening of worlds that emerges from mundane moments of connection we

are already familiar with: exchanging a look with another woman in a room full of men, meeting someone you disagree with but whose arguments you enjoy, having a crush, and meeting a colleague whose level of irony and snark matches yours. Each of these moments of connection involve the promise and dynamism of a world that can change because of whom we have encountered in it. It is the basis and process of becoming and feeling connected to others in such a way that we understand how to become involved in the co-creation of conditions for well-being in our communities.

The kind of connection that is created through intentional vulnerability is one that is avid. In biomechanics, avidity is the cumulative strength of multiple, layered interactions between molecules linked together in a non-covalent bond. Non-covalent bonds are different than covalent bonds in that they don't change the nature of the molecule (from water to hydrogen peroxide, for example) but they change what the molecules can do, altering and heightening their capacities (this is the case in most medicinal compounds—you see the potential in this metaphor). Avidity is a focused potentiality, a capacity of becoming. That's what Lorde means by 'the erotic,' this capacity for avid connection across difference is an opening of new possibilities for both understanding and action. It is the expansion of our knowledge of ourselves, what we want, what we are capable of, what we can imagine. This is the power of connection through intentional vulnerability.

Intentional vulnerability is a set of practices that are meant to reveal the truth—which is that we are all bound up together. This kind of vulnerability is political not only because it can be a basis for friendship but because politics is a polity's way into intentional making. Politics is the way that we decide how we, as interdependent individuals in society, will be related and separated: how we function together, how we create, regulate, and maintain our relations and relationships, and how resources will be distributed and to what purpose.

<div align="right">Miranda Young and Deva Woodly</div>

Toward a political theory of situated vulnerability: the community-building work of social movements today

As a feminist philosopher working in academia and a former organizer in the Italian chapter of #NiUnaMenos (translated as Not One Less; in Italian, #NonUnaDiMeno), I have been deeply engaged in studying vulnerability as both an epistemological and political resource. My primary interest lies in developing a political theory of vulnerability that is informed by the community-building work of social movements and is therefore fundamentally oriented toward praxis.

The notion of vulnerability is often used in both public discourse and ethical and political theory to generalize a condition of fragility, marginalization, and exclusion that certain groups or individuals face in contemporary societies and to call for institutional support and protection. However, the use of the vulnerability framework often neglects to account for the agency of communities labeled as vulnerable. It also obscures how institutions, by establishing norms and prescriptions, can perpetuate structural violence by embedding *expectations* of care into social roles.

These normative expectations, particularly within caregiver–care receiver relationships, prescribe dependence on one side and an ethical duty to provide care on the other. In this framework, the caregiver is positioned as the sole agent, reinforcing an asymmetry of agency. A care ethics structured in this way fails to address scenarios where these expectations of care break down. What happens when care relationships fail? Is the failure attributed to the individuals involved, or is it a consequence of the relationship itself?

From a radically different perspective, grassroot social movements such as those born in the last decade in the American continent and now active in many countries—like #BlackLivesMatter (BLM) and #NiUnaMenos (NUM)—have been promoting the transformation and creation of new infrastructures and institutions that make care relationships possible. They do so by fostering a radical politics of care that refuses both to place the burden of care solely on individuals and to victimize those labeled as vulnerable. This is especially crucial when violence and oppression take on a structural and systemic nature—such as patriarchal violence, racism, and environmental destruction—as they challenge political theory precisely in its attempt to define the forms of vulnerability they produce or expose. This challenge can be encapsulated in the following questions: Can a politics of care that counteracts structural violence be grounded on vulnerability? Can such politics give rise to a mode of communality that is structured to endure beyond the moment of its emergence?

To effectively address these questions, it is essential to adopt a feminist perspective on vulnerability—one that understands it as embodied and embedded within social relationships, infrastructures, and mutual dependencies. Social movements like BLM and NUM offer a crucial example of how communality can be built through this situated understanding of vulnerability. In this contribution, I argue that they achieve this by fostering a transformative politics of care, which demands the creation of social and material infrastructures of care and justice. This politics is truly transformative because it draws from a plural source: the diverse experiences of oppression among its members. Through this foundation, the politics of care constructs new social imaginaries and powerful counter-narratives.

First, a clarification on my use of the notion of vulnerability within the framework of a politics of care. Amid the coronavirus pandemic, The Care Collective (founded in 2017 as a London-based reading group) released its groundbreaking text, *The Care Manifesto*, which frames precarity as a phenomenon that, while made more visible by this global health crisis, has deep and long-standing structural roots. *The Care Manifesto* examines vulnerability as unequally distributed due to the neoliberal economic order, which reshapes communal life—both in the so-called global south and the wealthy western countries—according to a principle of pervasive carelessness. Over the past forty years, many states have pursued policies that have eroded the welfare state and dismantled democratic institutions under the guise of nationalist and authoritarian agendas. The neoliberal project of replacing political actors and values with economic ones ultimately denies human complexity as well as any recognition of vulnerability and fragility (Brown, 2015). The reduction of human lives' value to a market logic is the outcome of 'histories of colonial, imperialist, misogynist, and white supremacist violence' (Gordon-Rottenberg, 2023, p.

4). This 'crisis of care'—that is, the 'deliberate rolling back of public welfare provision and resources, replaced by global corporate commodity chains' (The Care Collective, 2020, p. 15)—has shaped uncaring communities, whose approach to both production and social reproduction is organized around competitiveness and exclusions. As a consequence, social infrastructures promoting education, mutual aid, inclusivity, and also intimacy have been deprived of the resources to operate in most places (Spade, 2020). The crisis of care has inevitably led to a crisis of participatory democracy, insofar as democratic participation is a crucial form of care enacted at the collective level and most people simply have not the time, energy, commitment, and even desire to practice it anymore (The Care Collective, 2020, pp. 45–58).

In this context, the Care Collective argues that it is not possible to implement a politics of care without first rebuilding, in a new form, the relationships, social structures, and, above all, institutions that have been deprived of care by neoliberal policies. To achieve this, it is necessary to first understand which infrastructures we need to create communities that care—where the verb can be translated in different ways, e.g., 'taking care of,' 'being invested in,' 'showing interest in,' and so on. The answer to this question reflects the very structure of *The Care Manifesto*, which aims to rethink the following levels—or scales—of people's lives by adopting care as an organizing principle: caring kinships, caring communities, caring states, and caring economies. Generally speaking, *The Care Manifesto* is an invitation to rethink not only what care is, but particularly what this concept can *do* as 'our individual and common ability to provide the political, social, material, and emotional conditions that allow the vast majority of people and living creatures on this planet to thrive—along with the planet itself' (The Care Collective, 2020, p. 6).

Care is not something one can simply give or receive without being actively invested in a relationship of care. Indeed, the role one plays in care relationships—especially political ones—is always a *situated* one, shaped by specific conditions that determine varying degrees of vulnerability. Some individuals or groups are in more precarious positions than others when seeking to transform these relationships. Therefore, understanding the situated nature of care requires addressing the interdependencies that define human lives. As Judith Butler claims, vulnerability 'should not be considered as a subjective state, but rather as a feature of our shared or interdependent lives," since one is "always vulnerable to a situation, a person, a social structure, something upon which we rely and in relation to which we are exposed' (Butler, 2020, p. 36). The complex web of interdependencies that shapes human lives also leads to a differential distribution of vulnerability, driven by the vastly unequal allocation of resources and opportunities.

For this reason, the politics of care—as a discourse on interdependence—stands in stark contrast to the human rights discourse. The latter, still dominant in care scholarship, relies on the independence/dependence dichotomy, which is rooted in the fiction of the autonomous liberal subject. As Neve Gordon and Catherine Rottenberg note, 'rights are not just defenses against social and political power but are, as an aspect of governmentality, a crucial aspect of power aperture' (Gordon–Rottenberg, 2023, p. 11). The discourse on rights, regulated by a formal principle of equality, shapes subjects by making their existence legible (Brown, 2004). These terms of legibility sometimes become inescapable and end up producing more vulnerability.

For example, citizenship grants certain individuals social and political rights, making them 'legible' and formally equal within a given country. However, the very criteria that confer this recognition also create structural exclusions, denying many others—those without citizenship—the possibility of accessing the same rights.

The principle of formal equality that underpins human rights discourse fails to account for the many ways in which our mutual interdependencies shape our lives. I therefore propose understanding vulnerability as both a consequence of the material conditions that sustain one's existence and the constellation of diverse desires and intimacies that open individuals to relationality and communality.

To fully grasp vulnerability in these terms, both political theory and praxis should embrace a paradigm of difference rather than equality, while also recognizing that difference is not merely a byproduct of oppression but a fundamental aspect of human experience. Situating vulnerability requires indeed a peculiarly feminist methodology inspired by bell hooks' margin-to-center approach. This approach defines feminism 'in political terms that stress collective as well as individual experience,' especially those of 'women whose social conditions have been least written about, studied, or changed by political movements' (hooks, 1984, p. 25).

In a similar vein, Audre Lorde's invitation to women to 'root out internalized patterns of oppression within ourselves' in order 'to use each other's difference to enrich our visions and our joint struggles' (1984, p. 122) shows that vulnerability, far from being a merely passive condition, can lead to a redefinition of political power as a kind of collective agency. Indeed, collective agency has a plural source and might take on the unforeseen form of an assembly-based subject. I argue that a feminist analysis of vulnerability oriented toward a praxis is precisely the goal of socio-political movements like BLM and NUM today. They adopt structural interdependencies as critical lenses to recognize shared struggles and create solidarity, thus generating collective political power.

As Deva Woodly (2022) highlights, BLM, born in 2013 in the USA, aims to develop radical political imaginaries by learning from different lived experiences of Black people. This approach entails an always situated understanding of these lives, which, in Woodly's words, 'means that to account for one's self is also to account for one's social condition, location, and interconnectedness' (Woodly, 2022, p. 86). Woodly reads this approach as an 'investment in pragmatic imagination' (Woodly, 2022, p. 51) oriented toward the future, namely toward the concrete process of building—instead of just aspiring to—a more just society, along the lines of Saidiya Hartman's claim that 'a Black feminist poetics is not a plea for recognition, but a plan for abolition' (Hartman, 2021, p. 132). Moreover, Woodly identifies interdependence as the foundation of the movement's politics of care, rooted in a shared demand for health and resources for all bodies and relational experiences. Interdependence is, indeed, the pragmatic element of this politics, because it holds individuals accountable to their community (Woodly, 2022, p. 102). Accountability, along with an abolitionist approach that aims to *repair* the harm inflicted on people by systemic violence, characterizes BLM's practices to promote a healing justice (Threadcraft, 2021; Woodly, 2022, p. 121).

Another crucial example of a radical and transformative politics of care that is structurally organized at both the local and the international level, is the feminist

strike (*huelga feminista*) promoted every year on March 8th by the transfeminist movement NUM. Now active in many countries, NUM was created in Argentina in 2015 to fight against the pervasive form of violence that encompasses patriarchy, coloniality, racism, and land dispossession. The movement's politics of care is revolutionary, insofar as it aims to radically transform the structural conditions that produce an unequal distribution of precarity. Such politics makes visible and supports existing networks and coalitions between resisting groups in different areas of the world. It shapes 'the political subject that women, lesbians, travestis, trans people, and feminized bodies across the world are composing through every mass action in the streets, squares, and even in our beds' (Ni Una Menos, 2018, p. 3, my translation).

NUM's international feminist strike is a mode of collective subjectivation grounded on a shared but differentially distributed condition of vulnerability (Medina, 2023). The strike should be understood as a political process culminating in (but not reducible to) the huge demonstrations happening in many countries on March 8th every year. Verónica Gago describes it as an ongoing political laboratory providing both the conceptual tools for a situated investigation and a mode of action (Gago, 2020, p. 15). It advocates welfare and services that enable women, trans*, and non-binary individuals to work safely or to choose *not* to work if it involves exploitation or degradation (for a feminist exploration of a 'post-work' society, see Weeks, 2011). Moreover, the concept of labor at the heart of the feminist strike is much broader than the waged labor defended by unionized strikers. It also includes unwaged labor, highlighting care and domestic work, sex work, and all forms of precarious employment, while emphasizing the fundamental differences between bodies, territories, and existing conflicts.

The feminist strikers refuse to interpret care in paternalistic terms and reject the victimizing narrative of a debt-base economic order (Cavallero & Gago, 2021; Federici, 2019, pp. 60–74). In the process of building the strike every year, through their recurring participation in assemblies, the strikers actively bring to life the idea of the community they aspire to create on a larger scale: a community of care. With reference to NUM's mobilization, I coined the notion of 'choreographies of vulnerability and care,' that is, public and concerted modes of acting together with a transformative goal that adopt a narration of vulnerability as being embodied and situated in social relations, infrastructures, and mutual dependencies (Moro, 2022). I use the term choreographies because during the strike NUM activists rehearse and stage the community they want to bring to life by practicing, as it happens in their assemblies, mutual respect and care among the participants. The protesters performatively transform the public space along with the very conditions that allow for them to appear in public. They seek to turn the streets and the city itself into a more inclusive and diverse space where resistance to structural forms of violence becomes a rehearsed choreography—a 'dance' that involves all bodies together, even though each of them performs it in its own unique way. Choreographies of vulnerability and care, I claim, are a crucial asset to generate 'feminist visions of the city,' namely, the 'ongoing experiment' in 'living more justly in an urban world' that Leslie Kern (2021, p. 176) talks about when she claims that architecture and urban planning should be representative of a wide range of lived, embodied experiences.

✳

The community-building work of these anti-racist and feminist movements informs a political theory of vulnerability by situating vulnerability in the process of constitution of a collective political subject, instead of interpreting it as an individual condition. In many cases, these acts of care, mutual aid, and reciprocity are criminalized, e.g., through policies targeting migrant solidarity networks, housing activism, and labor organizing. Precisely for this reason, the approach margin-to-center that a politics of situated vulnerability offers is now more crucial than even to create powerful counter-hegemonic imaginaries.

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