



International Human Rights Law and the Protection of Vulnerable Communities: A Comparative Legal Perspective

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ABSTRACT

The protection of vulnerable communities under international human rights law has emerged as a central concern of contemporary legal scholarship, yet the concept of vulnerability itself remains contested and inconsistently operationalized across jurisdictions and treaty regimes. This study examines how international human rights law constructs, identifies, and protects vulnerable communities through a comparative analysis of universal, regional, and domestic legal frameworks. Drawing on a normative juridical methodology with a comparative-analytical design, the research synthesizes treaty provisions, jurisprudence from the European Court of Human Rights, the Inter-American Court of Human Rights, the African Court on Human and Peoples' Rights, and domestic constitutional practice across diverse legal traditions. The analysis reveals that vulnerability functions not as a fixed legal category but as a relational and context-dependent construct that adjudicative bodies deploy with varying degrees of methodological consistency. Significant divergence emerges in how regional human rights systems conceptualize vulnerability: the European system tends toward an open-ended, fact-sensitive approach, while the Inter-American system has developed a more explicit doctrine of structural vulnerability linked to historical discrimination and inequality. The African system exhibits a distinctive reparative orientation, evidenced in landmark jurisprudence ordering structural reforms. Domestic courts, meanwhile, frequently interpret international obligations through the lens of local constitutional culture, producing what this study terms "interpretive pluralism"—a pattern in which formal commitment to international standards coexists with substantively divergent outcomes. The study contributes a tripartite analytical framework distinguishing between categorical, contextual, and intersectional approaches to vulnerability, and argues that the absence of a coherent theory of vulnerability undermines the effectiveness of protection regimes. Practical implications for treaty body monitoring, judicial dialogue, and domestic implementation are discussed.

Keywords: Comparative Human Rights Law, Intersectional Discrimination, Regional Human Rights Systems, Treaty Interpretation, Vulnerable Communities, Vulnerability Theory

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1. INTRODUCTION

The question of how law should respond to vulnerability is as old as law itself, yet it has acquired renewed urgency in the contemporary human rights era.

International human rights law has progressively expanded its normative reach to encompass communities whose circumstances expose them to heightened risks of rights violations—refugees and asylum seekers, indigenous peoples, persons with disabilities, children, sexual and gender minorities, ethnic and religious minorities, and those living in poverty or affected by armed conflict and environmental degradation. The Convention on the Rights of Persons with Disabilities (CRPD), adopted in 2006, exemplified this trajectory by recognizing disability as a rights-based rather than a welfare-based category and by articulating a social model of disability that locates disadvantage in structural and attitudinal barriers rather than individual impairment. The United Nations Declaration on the Rights of Indigenous Peoples, adopted in 2007, similarly affirmed a comprehensive set of rights for peoples subjected to historical injustice, dispossession, and cultural erasure. The Convention on the Rights of the Child, the Convention on the Elimination of All Forms of Discrimination against Women, and the International Convention on the Elimination of All Forms of Racial Discrimination each addressed specific axes of vulnerability through dedicated treaty regimes.

Yet this proliferation of specialized instruments has not produced conceptual coherence. The term "vulnerability" appears across international legal instruments without a settled definition, and its operationalization by treaty bodies and courts varies considerably across institutional contexts. The concept has been described as a "rights-generative" idea that describes the shared human susceptibility to harm while also serving as a heuristic device for examining hidden biases and structural inequalities (Fineman, 2008; Heri, 2021). However, the translation of this theoretical insight into legal doctrine remains incomplete. Treaty bodies invoke vulnerability to justify heightened state obligations without specifying the criteria that determine which communities qualify or what heightened obligations entail. Regional courts have developed distinctive approaches: the European Court of Human Rights (ECtHR) has employed vulnerability as an open-ended, fact-sensitive concept, while the Inter-American Court of Human Rights has linked vulnerability more explicitly to structural discrimination and historical exclusion. The African Court on Human and Peoples' Rights has articulated a reparative approach that goes beyond declaratory relief to order structural reforms.

This divergence raises fundamental questions about the coherence and effectiveness of international human rights law's protection of vulnerable communities. Three theoretical traditions inform the analysis. Martha Fineman's vulnerability theory posits that vulnerability is universal and inherent to the human condition, but that it is differentially distributed through social institutions and relationships; the state's obligation, on this account, is not to eliminate vulnerability but to ensure that institutions are responsive to it (Fineman, 2008). Martha Nussbaum's capabilities approach, by contrast, focuses on the substantive freedoms that individuals require to live lives of dignity, identifying specific capabilities—bodily integrity, affiliation, practical reason—that are particularly threatened for members of marginalized communities (Nussbaum, 2011). The third tradition, intersectionality theory, developed by Kimberlé Crenshaw, emphasizes that vulnerability is not additive but multiplicative: individuals who occupy multiple marginalized positions face forms of discrimination that are

qualitatively distinct from those experienced by those who occupy only one (Crenshaw, 1989/2011). The synthesis of these traditions suggests that vulnerability in human rights law should be understood as a multidimensional construct encompassing inherent susceptibility to harm, socially produced exposure to risk, and structurally embedded patterns of disadvantage.

The scholarly literature has examined vulnerability in specific legal contexts—disability rights, refugee protection, children's rights—but has rarely addressed the comparative dimension systematically. The most sustained comparative treatment of vulnerability in European human rights law is found in analyses of the EU and Council of Europe frameworks, which demonstrate that despite shared institutional foundations, the two systems provide divergent standards for identifying and protecting vulnerable groups. Scholarship on the Inter-American system has highlighted the Court's development of a doctrine of "structural vulnerability" that links specific violations to broader patterns of discrimination and exclusion (Nash Rojas, 2019). Research on the African system has documented the Court's emerging jurisprudence on vulnerable groups, including landmark rulings on persons with albinism and indigenous peoples. However, no study has systematically compared how these three regional systems, together with universal treaty bodies and domestic courts, construct and operationalize vulnerability in human rights adjudication.

This study addresses that gap. The central research questions are: (1) How do universal, regional, and domestic legal frameworks construct and operationalize vulnerability in human rights protection? (2) What patterns of convergence and divergence emerge across regional human rights systems? (3) What doctrinal and institutional factors explain the observed variation? (4) What theoretical framework can account for the relationship between vulnerability, equality, and non-discrimination in international human rights law?

The significance of this study lies in its integrated comparative framework. By examining vulnerability across multiple levels of legal governance, the research demonstrates that the concept functions differently depending on institutional context, jurisprudential method, and underlying theories of equality. The findings have implications for treaty body practice, judicial dialogue, and the design of domestic protection regimes. The study also contributes to theoretical debates about the relationship between vulnerability and equality, arguing that vulnerability analysis should be understood not as a departure from equality principles but as a necessary complement to formal and substantive equality models.

2. LITERATURE REVIEW

2.1 The Emergence of Vulnerability in International Human Rights Law

The concept of vulnerability entered international human rights law through multiple pathways. The earliest treaty references appear in instruments addressing specific categories of rights-holders: the 1951 Refugee Convention's definition of a refugee implicitly recognized vulnerability arising from persecution, and the 1989

Convention on the Rights of the Child explicitly acknowledged children's special need for protection. The 2006 CRPD marked a decisive shift by articulating disability as a human rights issue and by obligating states to address the social and environmental barriers that produce disability-related disadvantage (Waddington & Lawson, 2018). Subsequent instruments, including the Convention on the Elimination of All Forms of Discrimination against Women and the International Convention on the Protection of the Rights of All Migrant Workers, similarly identified categories of rights-holders requiring specialized protection.

The theoretical elaboration of vulnerability as a legal concept drew heavily on Fineman's work, which argued that vulnerability is a universal condition that is differentially distributed through institutions of family, market, and state. Fineman's rejection of the "vulnerable subject" as a distinct legal category challenged the tendency to treat vulnerability as an exceptional condition requiring extraordinary measures, arguing instead for a responsive state that structures institutions to meet the universal need for care and support (Fineman, 2008). This theoretical move is significant for human rights law because it shifts the analytical focus from identifying exceptional categories of rights-holders to examining how legal and institutional arrangements produce or exacerbate vulnerability.

Human rights scholarship has both embraced and critiqued this framework. Heri (2021) argues that vulnerability should be understood as a relational concept that captures the ways in which individuals and communities are exposed to harm through their dependence on others and on social institutions. On this account, vulnerability is not a characteristic of particular groups but a condition that arises from specific relationships and structures. This relational understanding challenges the categorical approach that dominates treaty practice, in which vulnerability is attributed to designated groups on the basis of membership rather than assessed contextually.

2.2 Vulnerability in Regional Human Rights Systems

The three major regional human rights systems—European, Inter-American, and African—have developed distinctive approaches to vulnerability that reflect their respective historical origins, institutional designs, and jurisprudential methods. The European Court of Human Rights has employed vulnerability as an interpretive device that triggers heightened scrutiny and expanded state obligations, particularly in cases involving children, persons with disabilities, refugees, and victims of domestic violence. The Court's approach has been characterized as "open-ended," in the sense that it does not rely on a fixed list of vulnerable categories but assesses vulnerability in light of the specific facts of each case (Morawska, 2018). However, this openness has generated criticism for inconsistency and for the absence of clear criteria to guide the determination of vulnerability (Peroni & Timmer, 2013).

The Inter-American Court of Human Rights has developed a more structurally oriented approach. Its jurisprudence has consistently linked vulnerability to historical patterns of discrimination, colonialism, and inequality, and it has recognized that certain communities—indigenous peoples, Afro-descendant populations, persons with

disabilities, and displaced persons—face vulnerability that is produced and sustained by state institutions and social structures (Nash Rojas, 2019). The Court's advisory opinions and contentious cases have articulated a doctrine of "special protection" that requires states to adopt affirmative measures to address the structural conditions that produce vulnerability. This approach resonates with the capabilities framework in its emphasis on the substantive conditions necessary for rights enjoyment.

The African Court on Human and Peoples' Rights has articulated a reparative approach to vulnerability that is distinctive in its emphasis on structural reform. In its landmark judgment in *Centre for Human Rights and Others v. United Republic of Tanzania*, delivered in 2025, the Court held Tanzania liable for failures to protect persons with albinism from violent attacks and ordered sweeping legislative and institutional reforms, including amendments to classify crimes against persons with albinism as hate crimes. The Court's reparations framework was characterized as "comprehensive, victim-centred, and structurally transformative," marking a significant development in the jurisprudence of regional human rights courts. The African Commission on Human and Peoples' Rights has similarly emphasized the need for substantive equality and has recognized that formal equality models are inadequate to address the structural dimensions of vulnerability.

2.3 Vulnerability in Domestic Legal Systems

This study employs a normative juridical methodology with a comparative-analytical design. Normative juridical research examines legal norms, principles, and doctrines through the analysis of primary legal sources—treaties, jurisprudence, constitutional provisions, and legislation—as well as secondary sources including scholarly commentary and policy documents. The comparative dimension systematically examines how different legal systems construct and operationalize vulnerability, identifying patterns of convergence and divergence and explaining variation through reference to institutional, doctrinal, and contextual factors.

The research design is qualitative and multi-level. Primary sources include the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the CRPD, the Convention on the Rights of the Child, the Convention on the Elimination of All Forms of Discrimination against Women, the International Convention on the Elimination of All Forms of Racial Discrimination, the European Convention on Human Rights, the American Convention on Human Rights, the African Charter on Human and Peoples' Rights, and the United Nations Declaration on the Rights of Indigenous Peoples. Jurisprudential sources include selected judgments of the European Court of Human Rights, the Inter-American Court of Human Rights, and the African Court on Human and Peoples' Rights, as well as general comments and recommendations of United Nations treaty bodies.

The analytical framework integrates three approaches to vulnerability identified in the literature. The categorical approach attributes vulnerability to designated groups on the basis of shared characteristics, as exemplified by treaty provisions that identify

specific categories of rights-holders. The contextual approach assesses vulnerability in light of the specific circumstances of individual cases, as exemplified by the ECtHR's fact-sensitive methodology. The intersectional approach examines how multiple axes of marginalization interact to produce qualitatively distinct forms of vulnerability, as articulated in Crenshaw's framework and applied in recent human rights scholarship.

The selection of cases and jurisdictions for analysis was guided by three criteria: (1) jurisprudential significance, understood as the influence of a decision or body on subsequent legal development; (2) diversity of legal tradition, institutional design, and socio-political context; and (3) availability of authoritative texts and scholarly commentary. The analysis prioritizes developments from 2015 to 2026, with reference to foundational instruments and jurisprudence where necessary for contextual understanding.

4. RESULTS AND DISCUSSION

4.1 The Construction of Vulnerability in Universal Treaty Regimes

The analysis reveals that universal human rights treaty bodies employ vulnerability in three distinct ways, each with different implications for state obligations and rights-holder status. The first is categorical attribution, in which vulnerability is ascribed to designated groups on the basis of shared characteristics. The CRPD exemplifies this approach: its preamble recognizes that "persons with disabilities continue to face barriers in their participation as equal members of society and violations of their human rights in all parts of the world," thereby constructing disability as a category of vulnerability requiring specialized protection (United Nations, 2006). The Convention on the Rights of the Child similarly constructs childhood as a condition of inherent vulnerability requiring special safeguards. This categorical approach has the advantage of clarity and predictability but risks essentializing group characteristics and overlooking intra-group diversity.

The second approach is contextual assessment, in which vulnerability is determined in light of the specific circumstances of individual cases. United Nations treaty bodies increasingly employ this approach in their general comments and concluding observations. The Committee on Economic, Social and Cultural Rights, for example, has emphasized that states parties must "take steps to ensure that the rights of all persons are protected without discrimination of any kind" and that "special attention must be given to those who are disadvantaged or vulnerable" (CESCR, 1990). This formulation avoids specifying which groups are vulnerable in advance, instead directing attention to the conditions that produce disadvantage. The contextual approach is more responsive to the fluid and relational nature of vulnerability but provides less guidance to states seeking to design targeted protection measures.

The third approach is intersectional analysis, which examines how multiple axes of marginalization interact to produce qualitatively distinct forms of vulnerability. The Committee on the Elimination of Discrimination against Women has increasingly employed intersectional analysis in its concluding observations, recognizing that women

who belong to ethnic, racial, or religious minorities, or who are refugees or migrants, face compounded discrimination that cannot be captured by examining each ground of discrimination in isolation. The Committee on the Rights of Persons with Disabilities has similarly recognized that women and girls with disabilities face "multiple and intersecting forms of discrimination" (CRPD Committee, 2016). The intersectional approach offers the most analytically sophisticated account of vulnerability but is the most challenging to operationalize in legal doctrine, as it requires courts and treaty bodies to assess the combined effects of multiple forms of marginalization without reducing them to additive components.

4.2 Regional Variation in the Operationalization of Vulnerability

The comparative analysis reveals significant divergence in how regional human rights systems operationalize vulnerability, with each system exhibiting distinctive methodological and normative commitments. The European Court of Human Rights employs an open-ended, fact-sensitive approach that assesses vulnerability in light of the specific circumstances of each case. The Court has identified vulnerability in cases involving children, persons with disabilities, refugees and asylum seekers, Roma communities, victims of domestic violence, and persons living with HIV, among others. However, the Court has been criticized for the inconsistency of its vulnerability analysis and for the absence of clear criteria to guide the determination of vulnerability (Peroni & Timmer, 2013). The Court's recent jurisprudence on disability rights illustrates this tension: while it has delivered significant judgments in favor of persons with disabilities and is moving toward a disability-sensitive interpretation of facts, it has sharply distanced itself from the CRPD in specific areas such as legal capacity, inclusive education, voting, and involuntary treatment. This "false convergence," as Fiala-Butora and colleagues describe it, arises not from differences in substantive norms but from the ECtHR's different jurisprudential methods and its views on its role relative to the CRPD's treaty body.

The Inter-American Court of Human Rights has developed a more structurally oriented approach that links vulnerability to historical patterns of discrimination and exclusion. The Court's jurisprudence consistently emphasizes that vulnerability is produced and sustained by state institutions and social structures, and it has recognized that certain communities—indigenous peoples, Afro-descendant populations, persons with disabilities—face a heightened risk of rights violations as a result of structural discrimination. In its advisory opinions and contentious cases, the Court has articulated a doctrine of "special protection" that requires states to adopt affirmative measures to address the structural conditions that produce vulnerability. The Inter-American Commission on Human Rights has similarly emphasized the situation of "persons in a situation of vulnerability," a formulation that avoids the essentialism of group-based categorization while acknowledging that certain populations face disproportionate risks.

The African Court on Human and Peoples' Rights exhibits a distinctive reparative orientation that goes beyond declaratory relief to order structural reforms. The Court's landmark judgment in the albinism case represents a significant development in regional human rights jurisprudence, ordering legislative amendments, institutional reforms, and

comprehensive reparations for victims. The African Commission has similarly emphasized the need for substantive equality and has recognized that formal equality models are inadequate to address the structural dimensions of vulnerability. The African system's approach reflects the broader context of the continent's historical experience with colonialism, underdevelopment, and conflict, which has shaped both the substantive content of vulnerability and the institutional mechanisms through which it is addressed.

4.3 Interpretive Pluralism and Domestic Engagement with International Norms

The analysis of domestic legal systems reveals a pattern of interpretive pluralism in which formal commitment to international vulnerability norms coexists with substantively divergent outcomes shaped by local constitutional culture, institutional capacity, and political context. Comparative studies of CRPD implementation across thirteen jurisdictions demonstrate significant variation in how domestic courts interpret and apply the Convention's provisions. Some courts treat the CRPD as directly applicable law, while others regard it as an interpretive aid that informs the application of domestic constitutional and statutory provisions. The legal status of the CRPD in domestic law, the availability of judicial mechanisms for enforcing economic and social rights, and the degree of judicial independence all influence the extent to which international norms are translated into domestic protection.

The experience of indigenous peoples' rights provides a particularly instructive case study. Despite the adoption of the United Nations Declaration on the Rights of Indigenous Peoples in 2007 and its endorsement by a majority of states, implementation at the domestic level remains uneven. A comparative study of Indonesia and Russia found that Indonesia has a relatively progressive framework through constitutional recognition of indigenous communities, yet implementation remains weak due to fragmented sectoral governance and the absence of effective enforcement mechanisms. The Special Rapporteur on the rights of indigenous peoples has emphasized that states have an obligation to recognize indigenous peoples as holders of specific rights under international law, and that refusal to recognize indigenous peoples does not diminish the rights they hold. This tension between international normative recognition and domestic implementation is a recurring theme across vulnerable communities.

4.4 The Criminalization of Sexual Minorities and the Limits of Cultural Sovereignty

The criminalization of sexual orientation, gender identity and expression, and sexual characteristics (SOGIESC) represents one of the most acute contemporary challenges to the protection of vulnerable communities under international human rights law. Winkler and Bantekas (2025) have demonstrated through a comprehensive analysis that domestic statutes criminalizing SOGIESC are incompatible with international human rights law, notwithstanding claims of cultural sovereignty or religious tradition. The authors show that domestic and supranational courts and treaty bodies have interpreted relevant treaty provisions in an evolutive manner, recognizing SOGIESC as a discursive category within international human rights law that commands

decriminalization. The limitation clauses in human rights treaties do not permit states to opt out of their obligations concerning SOGIESC, even when local culture is invoked as justification.

This finding has significant implications for the broader analysis of vulnerability. It demonstrates that cultural relativism cannot serve as a justification for the denial of fundamental rights to vulnerable communities, and that international human rights law provides resources for challenging the claims of cultural sovereignty that are frequently deployed to shield states from accountability. At the same time, the persistence of criminalization despite international condemnation highlights the limits of legal normativity in the absence of enforcement mechanisms and domestic political will.

4.5 Refugee Protection and the Limits of Categorical Approaches

The protection of refugees and asylum seekers illustrates the limitations of categorical approaches to vulnerability. The 1951 Refugee Convention defines a refugee as a person who has a well-founded fear of persecution on account of race, religion, nationality, membership of a particular social group, or political opinion. This definition establishes a categorical framework that determines access to protection on the basis of membership in a designated category. However, the categorical approach struggles to accommodate forms of vulnerability that do not fit neatly within the Convention's grounds, including vulnerability arising from climate change, gender-based violence, and socio-economic deprivation. The blurring of the legal distinction between migrants and refugees, as noted in recent scholarship, has created a need for a common rights-based framework that transcends rigid categorizations and ensures that protection responsibilities are not thwarted by jurisdictional or definitional limitations.

The African system has developed a more expansive approach to refugee protection through the 1969 OAU Convention Governing the Specific Aspects of Refugee Problems in Africa, which extends refugee status to persons fleeing external aggression, occupation, foreign domination, or events seriously disturbing public order. This regional instrument reflects a recognition that vulnerability in the African context frequently arises from collective circumstances—conflict, instability, and state failure—rather than individual persecution. The African Court's jurisprudence on the Ogiek people and persons with albinism has similarly emphasized structural and collective dimensions of vulnerability that are often absent from European and Inter-American jurisprudence.

4.6 Synthesis: Toward a Coherent Framework for Vulnerability Analysis

The comparative analysis reveals that the protection of vulnerable communities under international human rights law is characterized by three persistent tensions. The first is the tension between categorical and contextual approaches to identifying vulnerability. Categorical approaches provide clarity and predictability but risk essentializing group characteristics and overlooking intra-group diversity. Contextual approaches are more responsive to the relational and dynamic nature of vulnerability but provide less guidance to states and adjudicative bodies.

The second tension is between universal standards and regional particularities. While international human rights instruments establish universal norms, their interpretation and application are inevitably shaped by regional legal cultures, institutional structures, and socio-political contexts. The European, Inter-American, and African systems have each developed distinctive approaches to vulnerability that reflect their respective historical experiences and institutional mandates. These regional variations are not necessarily problematic—indeed, they may enable more context-sensitive protection—but they raise questions about the coherence and universality of international human rights law.

The third tension is between declaratory rights and effective remedies. The proliferation of specialized instruments and the recognition of vulnerability in jurisprudence have not been matched by corresponding advances in enforcement and implementation. The African Court's albinism judgment demonstrates that regional courts can order structural remedies, but the effectiveness of such remedies depends on domestic political will and institutional capacity. The gap between rights and remedies remains the most significant obstacle to the protection of vulnerable communities.

A coherent framework for vulnerability analysis must navigate these tensions without resolving them prematurely. Such a framework should be grounded in three principles. First, vulnerability should be understood as a relational and context-dependent concept that is produced and sustained by social institutions, legal arrangements, and patterns of discrimination. Second, the identification of vulnerability should be based on an assessment of actual exposure to harm and disadvantage rather than mere membership in a designated group. Third, the operationalization of vulnerability should prioritize substantive remedies that address the structural conditions producing vulnerability, not merely declaratory relief.

5. CONCLUSION

This study has examined how international human rights law constructs and protects vulnerable communities through a comparative analysis of universal, regional, and domestic legal frameworks. The analysis reveals that vulnerability functions as a dynamic and contested concept whose meaning and operationalization vary across institutional contexts.

The principal findings are as follows. First, universal treaty bodies employ three distinct approaches to vulnerability—categorical attribution, contextual assessment, and intersectional analysis—each with different implications for state obligations and rights-holder status. Second, regional human rights systems exhibit significant divergence in their operationalization of vulnerability: the European system employs an open-ended, fact-sensitive approach; the Inter-American system emphasizes structural vulnerability linked to historical discrimination; and the African system has developed a reparative orientation that orders structural reforms. Third, domestic legal systems engage with international vulnerability norms through a pattern of interpretive pluralism in which formal commitment coexists with substantively divergent outcomes.

Fourth, the criminalization of sexual minorities illustrates the limits of cultural relativism as a justification for rights violations and the resources that international human rights law provides for challenging such claims. Fifth, the gap between declaratory rights and effective remedies remains the most significant obstacle to the protection of vulnerable communities.

The theoretical contribution of this study lies in its tripartite framework distinguishing categorical, contextual, and intersectional approaches to vulnerability, and in its argument that vulnerability analysis should be understood as a necessary complement to equality principles rather than a departure from them. The study also advances understanding of interpretive pluralism as a structural feature of the interaction between international and domestic legal systems.

The practical implications are several. Treaty bodies should develop clearer criteria for identifying vulnerability and should adopt intersectional analysis more systematically in their monitoring practice. Regional courts should engage in structured judicial dialogue to reduce unnecessary divergence while respecting legitimate contextual variation. Domestic courts and legislatures should strengthen mechanisms for implementing international vulnerability norms, including by adopting interpretive presumptions in favor of international standards and by establishing specialized institutions for monitoring and enforcement.

The limitations of this study include its reliance on documentary sources and legal analysis rather than empirical data on the impact of vulnerability jurisprudence. Future research should examine the actual effects of judicial and treaty body interventions on the protection of vulnerable communities through empirical methods including case studies, interviews, and quantitative analysis. Additionally, the study's focus on the three major regional human rights systems means that developments in other regions, including the Asia-Pacific and the Arab world, are underrepresented. Future research should examine how vulnerability is constructed and operationalized in regions without strong regional human rights mechanisms, and what alternative protection pathways exist.

The protection of vulnerable communities remains one of the most pressing challenges facing international human rights law. Addressing this challenge requires not only normative development but also institutional innovation, political will, and sustained engagement with the structural conditions that produce vulnerability. The framework developed in this study offers a foundation for such engagement by clarifying the conceptual distinctions, comparative patterns, and practical implications that must inform any effective protection regime.

REFERENCES

- Crenshaw, K. (1989). Demarginalizing the intersection of race and sex: A Black feminist critique of antidiscrimination doctrine, feminist theory and antiracist politics. *University of Chicago Legal Forum*, 1989(1), 139–167.

- Crenshaw, K. (2011). Mapping the margins: Intersectionality, identity politics, and violence against women of color. *Stanford Law Review*, 43(6), 1241–1299. <https://doi.org/10.2307/1229039>
- Fiala-Butora, J., Stein, M. A., & Smith, M. S. (2025). Disability human rights standards before the European Court of Human Rights—false convergence and methodologically-driven divergence? *Human Rights Law Review*, 25(3), ngaf027. <https://doi.org/10.1093/hrlr/ngaf027>
- Fineman, M. A. (2008). The vulnerable subject: Anchoring equality in the human condition. *Yale Journal of Law and Feminism*, 20(1), 1–23.
- Heri, C. (2021). *Responsive human rights: Vulnerability, ill-treatment and the ECtHR*. Hart Publishing.
- Ippolito, F., & Sánchez, S. I. (Eds.). (2015). *Protecting vulnerable groups: The European human rights framework*. Hart Publishing.
- Morawska, E. H. (2018). The European Court of Human Rights towards group vulnerability: An open-ended approach. In A. Gliszczyńska-Grabias & G. Baranowska (Eds.), *Women, children and (other) vulnerable groups* (pp. 45–67). Brill.
- Nash Rojas, C. (2019). The Inter-American Court of Human Rights' approach to vulnerable groups. *Inter-American and European Human Rights Journal*, 12(1), 85–112.
- Nussbaum, M. C. (2011). *Creating capabilities: The human development approach*. Harvard University Press.
- Peroni, L., & Timmer, A. (2013). Vulnerable groups: The promise of an emerging concept in European Human Rights Convention law. *International Journal of Constitutional Law*, 11(4), 1056–1085. <https://doi.org/10.1093/icon/mot042>
- Siddique, H. A. (2023). A concise review on comparative studies on the evolution of minority rights in the European and African context. *Review of Socio-Economic Perspectives*, 8(2), 1–7. <https://doi.org/10.19275/rsep160>
- United Nations. (2006). *Convention on the Rights of Persons with Disabilities*. <https://www.un.org/development/desa/disabilities/convention-on-the-rights-of-persons-with-disabilities.html>
- Waddington, L., & Lawson, A. (Eds.). (2018). *The UN Convention on the Rights of Persons with Disabilities in practice: A comparative analysis of the role of courts*. Oxford University Press.
- Winkler, M. M., & Bantekas, I. (2025). The criminalization of sexual minorities in international human rights law: An appraisal. *Human Rights Law Review*, 25(2), ngaf017. <https://doi.org/10.1093/hrlr/ngaf017>
- Xanthaki, A. (2023). Forced migrants in Europe and their cultural rights: In need of minority protection. *International Journal on Minority and Group Rights*, 30(5), 799–820. <https://doi.org/10.1163/15718115-bja10122>