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Embodied and embedded vulnerable subject: victims of torture in asylum process

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Asylum seeker is the most judicially naked of all human beings and in need of protection. However, as Arendt lament about human rights reveal human rights fail those who are at their most human; those who do not have the protection of a citizenship status and whose world has been intrinsically politically ruptured by torture. I claim, following Martha Fineman's vulnerability approach, that this failure can be traced back to the western liberal thought and its fundamental split between the mind and the body where autonomy forms a foundation of legal and political subjectivity – rather than vulnerability as universal condition. The law however regulates, orders and controls bodies, but when it does, it has a certain kind of body in mind, it categorizes, forms groups and set boundaries of inclusion and exclusion. When the term vulnerability is used in law, it is attributed only to some individuals or groups, who are vulnerable populations or it is used in asylum determination process as a basis for comparison to share the scarce resources / special services to those most vulnerable, thus ignoring the universality and constancy of vulnerability as described by Fineman. Her thesis also recognises the radical particularity of vulnerability in our embodiment and embeddedness. Asylum seekers, like all human beings, are embedded in institutions and societal structures, which confer power and privilege through the operation of (here asylum) system and by creating societal identities. Law's stagnant categories are at odds with the constantly changing human vulnerability, which the asylum process seeks to identify and respond to. In my paper, I will focus on the embodied and embedded vulnerable subject, who is at the interface with the structural and institutional mediation of power and vulnerability. I try to analyse with Fineman's vulnerability thesis the tortured subject as an inherent representation of the ways in which the politics and law work on embodied vulnerable subject.