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Jonathan Herring

# Vulnerability, Childhood and the Law

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# Vulnerability, Childhood and the Law

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# Chapter 1

## Introduction



**Abstract** This chapter sets out some of the key arguments of the book. It does this by explaining the concept of childhood and how the law interacts with children. It also explore how the law uses age in a range of situations to determine what rights children do or do not have under the law. The chapter also introduces the concept of vulnerability which is used to justify the law's interaction with children.

**Keywords** Vulnerability · Child · Protection · Rights · Status

### 1.1 The Central Argument of the Book

This book explores the nature of what it is to be a child, an adult and indeed a person. Foundational to legal and social responses to people is the distinction between children and adults. Your legal rights and social position depend hugely on whether you are classified as an adult or a child. In short for adults the guiding principle is autonomy: you are free to live your life as you choose, as long as you have capacity to make the choice and you are not harming others (Foster 2009). For children, the law protects children from harms and decisions are made by others based on what is in a child's welfare. Determining what will promote a child's welfare is a task that is normally handed over to parents, but where necessary courts can make the assessment (Children Act 1989, Section 1).

Underpinning that distinction between childhood and adulthood is the idea of children being vulnerable and therefore in need of protection; while adults are able to look after themselves. Childhood is seen as a time for safety and preparation for adulthood. It is at the same time a precarious time: the child is seen as at risk to wide range of dangers; but also a precious one: the child is learning skills and having experiences which will have a profound impact on their adult life.

This book will challenge that distinction between children and adulthood. It will do so by exploring the concept of vulnerability which for many writers has been at the heart of justification for why children can, and should, be treated differently from adults. The argument that we should draw no distinction between adults and