

LETTER FROM THE EDITORS

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How do we protect members of marginalized and vulnerable groups? How do we ensure that the legal system does not exacerbate their vulnerability? These concerns, which arise in both civil and criminal contexts, lie at the heart of Canadian jurisprudence insofar as it tries to reconcile legal regimes and structures with personal autonomy and dignity. They are also pressing and timely. To name but a few examples from the past six months, the Supreme Court in *Bedford* and *Rasouli*, the Ontario Court of Appeal in *Nur*, and the Alberta Court of Appeal in *Myette* have all struggled with the proper balance between the protection of the vulnerable and the letter of the law.

The papers in this issue examine the ways in which particular vulnerabilities interact with the law, and whether these interactions are of the kind acceptable in a free and democratic society. The first considers the tension, in the context of religious observance that make the victim particularly liable to suffer certain harms, between the responsibility of the tortfeasor to take his victim as he finds him and the responsibility of the victim to mitigate his damages. It goes on to suggest that a highly contextual and fact-specific approach, rather than the application a more generalized test or set of indicia, will provide the best means of determining where the tortfeasor's responsibility ends and the injured party's responsibility begins.

The second paper examines the practice of using youth criminal convictions to impeach an accused's credibility in a subsequent criminal proceeding. While such convictions may indeed be relevant to the assessment of an accused's credibility, as are adult convictions, their use runs contrary to the principles underlying the youth criminal justice system, which reflect a lower degree of moral blameworthiness and on the part of young offenders and emphasize rehabilitation and reintegration over retribution. The article puts forth two different ways of ensuring that prejudicial effect, in the particular proceeding and on the justice system as a whole, of admitting youth criminal records into evidence does not outweigh their probative value.

To what degree should religious expression be protected by the principles of private law? What are our private obligations to individuals in respect of their religious practices? To what extent do we really believe in rehabilitation? Are crimes committed in one's youth relevant evidence of one's character as an adult? These questions, like those in *Bedford*, *Rasouli*, *Nur*, *Myette*, and a host of other cases, are at once both legal and social. The answers depend not only on the content of our laws but the content of our values. What we are engaged in is working out the Canadian answers to these questions. The Editors hope that the following analyses make some small contribution to that project.