No other issue has torn the fragile fabric of contemporary Europe apart as much as the so-called ‘refugee crisis.’ Populist movements on the march from France to the Netherlands, from Hungary to Italy all see national sovereignty as threatened by alien others – be they refugees, migrants and asylum seekers. For the first time since the second World War, an anti-immigrant and nationalist party, the AfD (Alternative für Deutschland), has entered the German Parliament with nearly 13% of the vote.

Who is a refugee? Who qualifies for asylum and why? Who is an immigrant as distinguished from a third-country national?

These are categories of human persons constructed according to the logic of complicated international and regional human rights regimes. Governing the 27 countries of the European Union (excluding the UK) is the Charter of the Fundamental Rights of the European Union under the adjudication of the Court of Justice of the European Union (ECJ); 47 other states that are Council of Europe members, including Russia, Turkey, the Ukraine and others, are adherents to the European Convention on Human Rights, for the oversight of which the European Court of Human Rights (ECtHR) is responsible. Both courts accept the primary authority of the 1951 Geneva Convention relating to the Status of Refugees and its Protocol as binding.

The presence of these multiple legal regimes creates a complex tapestry against the background of which the claims of migrants, refugees and asylees are adjudicated. The purpose of our workshop will be to examine 1) these different rights regimes and their cooperative as well as conflicting adjudications, and 2) to throw light on the fundamental philosophical tensions between territoriality and human rights, sovereignty and respect for universal personhood.
Presenters

Seyla Benhabib (Scholar in Residence, Columbia Law School, Spring 2018; Eugene Meyer Professor of Political Science and Philosophy, Yale University)

Ayten Gündogdu (Associate Professor of Political Science, Barnard College-Columbia University)

Paul Linden-Retek (Robina Foundation Visiting Human Rights Fellow, Yale Law School; PhD Candidate, Dept. of Political Science, Yale University)

Dana Schmalz (Postdoctoral Research Fellow, Max Planck Institute for the Study of Religious and Ethnic Diversity, Göttingen)

Relevant Cases:

Hirsi Jamaa and Others v. Italy (ECtHR)


Khlaifia and Others v. Italy (ECtHR)


M.S.S. v. Belgium and Greece (ECtHR)


(read ECJ press release attached)

X and X v. Belgium (CJEU)
