



Public Lecture Series Spring 2017 Crossing Borders – and Then?

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Friday, 2 June 2017

**Death-at-Sea and Non-Access to Asylum: Distorting Governance
Gaps through the Co-Option of Human Rights**
**Prof. Violeta Moreno-Lax, School of Law, Queen Mary University
of London**

**Discussants: Prof. em. Walter Kälin, University of Bern, and Dr.
Daniela Vitiello, Roma Tre University, nccr – on the move visiting
researcher 2017**

18:15 – 19:45 h

University of Bern, UniS, Schanzeneckstrasse 1, 3012 Bern, Room A022

Abstract

Access to international protection, together with solidarity and responsibility sharing for refugee flows, is the principal challenge currently facing the international community. The 2016 UN Summit and the ensuing New York Declaration have, however, failed to resolve the matter, deferring discussions until 2018, leaving a key governance gap unaddressed – at the global level. What is

more, the issue of access has been distorted from one of facilitating safe and legal travel to refuge, to one of crime prevention and combatting of human trafficking and migrant smuggling even militarizing responses to facilitators. In the meantime, people continue losing their lives in the thousands in dangerous sea crossings at extortionate prices, often exploited and debased by mafias. Refugee and migrant rights have been diffused. It is ultimately in their name that a narrative of “rescue” and “saving” has emerged, but neither the final goals, nor their underpinning rationale or the means to achieve them have been revised. The “fight against illegal immigration” continues to live on.

Against this background, the lecture will trace the evolution of the “rescue through interdiction” or “rescue without protection” paradigm crystallized over the past years, including in the Mediterranean. It will be shown how the language of humanitarianism has been co-opted and de-naturalized to respond to the instant necessities of refugees found in distress at sea, obviating the causes of flight and the consequences of pre-emption, ultimately impeding flight and access to effective protection. It will be demonstrated how such paradigm serves to prevent departures or deflect protection seekers to points of embarkation across the Mediterranean. It will be revealed how the paradox – sparing them from the immediate dangers of irregular voyages, but without (real) opportunities to claim asylum, could be resolved: through a re-conceptualization of what “saving lives” means, whereby human rights are re-defined, from the markers of the outer limits of State powers into the key justifiers of interdiction.

The discussion includes a debate to what extent deaths-at-sea exacerbate a crisis of “governance” ultimately giving rise to the UN New York Declaration on Large Movement of Migrants and Refugees and the Global Compacts. Both institutional innovations might then shift the discourse over what “saving lives” might mean.

Curriculum Vitae

Violeta Moreno-Lax is Lecturer in Law, founding Director (2014–...) of the Immigration Law programme, and founding Co-Director (2014–16) of the Centre for European and International Legal Affairs (CEILA) at Queen Mary University of London. She is also a Fellow of the Centre for European Law of King’s College London, EU Asylum Law Coordinator at the Refugee Law Initiative of the University of London, Co-Chair of The Refugee Law Observatory, Convener of the Society of Legal Scholars (SLS) Migration Law Section, and member of the Steering Committee of the Migration Law Network. Since January 2016, she has been part of the Editorial Board of the European Journal of Migration and Law. She has held visiting positions at the Universities of New South Wales (2016–17), Oxford (2010–12), Nijmegen (2009–10) and The Hague Academy of International Law (Research Session 2010). She has published widely in the areas of international and European refugee and migration law and acted as expert consultant for the EU institutions and other organizations in the field.

Selected Publications

- *Accessing Asylum in Europe* (Oxford University Press, forthcoming).
- *EU Law and Public International Law: Co-Implication, Embeddedness and Interdependency*. Oxford Yearbook of European Law (2016, Special Issue) (co-edited with Paul Gragl).
- *“Boat Refugees” and Migrants at Sea: A Comprehensive Approach* (Brill, 2016) (co-edited with Efthymios Papastavridis).
- “Systematising Systemic Integration: ‘War Refugees’, Regime Relations, and a Proposal for a Cumulative Approach to International Commitments”, *Journal of International Criminal Justice* 12 (2014): 907.