



## **Public Lecture Series Spring 2018**

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**Thursday, 24 May 2018**

**Hospitality Denied: The European Court of Human Rights' Take on  
Migrant Issues**

**Prof. Marie-Bénédicte Dembour, Brighton Business School,  
University of Brighton**

**Discussant: Prof. Alberto Achermann, Institute of Public Law,  
University of Bern**

18:15 – 19:45 h

**Location: University of Bern, UniS, Schanzeneckstrasse 1, Room A 022.**

## **Abstract**

What would it take for the human rights of migrants to be respected in Europe today? This lecture presents some of the findings of Dembour's book *When Humans Become Migrants*, which shows, on the basis of a close review of six decades of Strasbourg jurisprudence, that the European Court of Human Rights too rarely finds for the migrant applicant. The book's counter-intuitive conclusion is that the Court generally privileges state sovereignty over migrants' rights. Dembour calls this process "the Strasbourg reversal".

Granted, the Strasbourg case law counts resounding judgments which establish protective standards for migrants. However, a comprehensive examination of the case law must include judgments of non-violation and decisions of inadmissibility. When this is done, the protective edifice supposedly represented by the European Convention on Human Rights reveals itself to be full of cracks, if not with entire walls missing.

One telling example is the little known *Bonger* case law, where the Court repeatedly declares complaints regarding lack of access to a residence permit inadmissible. The applicants, who cannot be returned to their country of origin, are left by the Court to live under an "illegal" status, unable either to access social benefits or to work legally. The Court says the situation falls outside the ambit of the European Convention on Human Rights. One should not have to point out that for individuals to be unable to live legally anywhere on earth should be considered hugely problematic in a human rights perspective. An oxymoron, the outcome is nonetheless logical in that it follows a series of jurisprudential paths adopted by the Court since its inception.

So, what do human rights mean? Is it possible to agree on what they require? In a different vein, are the politicians and the media who accuse the Court of trampling over national sovereignty wrong? Most importantly, can we expect the Court to stem the present inhumane treatment of migrants? And if not, who else can do this?

## **Curriculum Vitae**

Marie-Bénédicte Dembour is Professor of Law and Anthropology at the University of Brighton. An accomplished researcher and teacher as well as a passionate advocate for migrants' human rights, she recently authored *When Humans Become Migrants: Study of the European Court of Human Rights with an Inter-American Counterpoint* (Oxford University Press, 2015). You can discover its main ideas in 30 short podcasts available on [Marie-Bénédicte Dembour's blog](#).

## **Selected Publications**

- *When Humans Become Migrants. A Study of the European Court of Human Rights with an Inter-American Counterpoint*. Oxford: Oxford University Press, 2015.
- *Are Human Rights for Migrants? Critical Perspectives on the Status of Illegal Migrants in Europe and the United States*, co-edited with Tobias Kelly. London: Routledge, 2011.
- "What are Human Rights? Four Schools of Thought." *Human Rights Quarterly* Vol. 32, No. 1 (2010): 1–20.
- "Still Silencing the Racism Suffered by Migrants... The Limits of Current Developments under Article 14 ECHR." *European Journal of Migration and Law* Vol. 11 No. 3 (2009): 221–234.
- *Who Believes in Human Rights? Reflections on the European Convention*. Cambridge: Cambridge University Press, 2006.