

The Rights of Migrants and Refugees: Exploring the Role of Courts and Tribunals

17th /18th May 2018 | Aula Maxima, National University of Ireland Galway

Programme

Thursday, May 17th

- 10.00AM **Registration**
- 10.30AM **Panel A: On the role of courts and tribunals: conceptual challenges**
- Maria Papaioannou, *“CEAS before the Courts: Reflections on the judicialization of European asylum protection”*
- Patrícia Cabral, *“Building an European Responsibility Beyond Borders: The new concept of «systemic failures» in light of the EU Member States' responsibility for assessing applications for international protection”*
- Camilo Perez-Bustillo, *“Peoples in Movement: A comparative analysis of current trends regarding migrant and refugees rights in the Inter-American and European regional human rights courts, and the approach of the tribunals of conscience”*
- Questions and Answers
- 11:30AM **Panel B: Exploring Social Rights**
- Stefano Angeleri, *“The European Committee of Social Rights and Migrants: Procedural Advantages and Substantive Case-Law”*
- Venera Protopapa, *“Shaping Equality for Migrants. Civil society turns to Courts”*
- Clíodhna Murphy, *“Legal Barriers to Access to Justice for Irregular Migrant Workers: An Ongoing Saga”*
- Agnieszka Kubal, *“A trial by paper? Undocumented migrants in Russian courts - an ethnographic perspective”*
- Questions and Answers
- 12:45PM **Lunch**
- 1:45PM **Panel C: Family Life in Migration**
- Alan Desmond, *“Vitiation rather than vindication: the approach of the European Court of Human Rights to migrants' rights protection under Article 8 ECHR”*

Mark Klaassen, *“Between facts and norms: Testing compliance with Article 8 ECHR in immigration cases”*

Luljeta Caraoshi, *“Challenges for Protection of Family-Related Rights of Irregular Migrants Through the Lenses of HRC, ECtHR and IACtHR: Is a Minimum Common Denominator Possible?”*

Questions and Answers

2:45PM **Panel D: Protection challenges**

Samantha Arnold, *“Child refugee and subsidiary protection appeals in Ireland”*

Karolina Mendecka, *“Eeny, meeny, miny, moe, she can stay but he must go - the principle of the best interest of the child in the case law of the European Court of Human Rights”*

Samantha Currie, *“Vindicating rights or mitigating the impact of punitive decision-making? Examining the interaction of the courts with victims of trafficking in the UK”*

Noemi Magugliani, *“Human trafficking between State interests and individual protection: Challenging errors of law and the culture of disbelief in the United Kingdom's Upper Tribunal, Immigration and Asylum Chamber”*

Questions and Answers

4:00PM **Tea / Coffee Break**

4:15PM **Panel E: Beyond Europe**

Abdullah Hamidioglu, *“The influence of the ECtHR and the CJEU on Refugee's Rights in Turkey”*

Brid Ní Ghràinne, *“Complementary Protection and Encampment: A Critical Analysis”*

Amy Weismann, *“The Promise of Resettlement: Challenges and Obligation in the U.S. Context”*

Tatiana de A.F.R. Cardoso Squeff, *“Is there a Latin American Refugee Law? An analysis of the 'Familia Pacheco Tineo vs. Bolivia' case before the Inter-American Court of Human Rights”*

Questions and Answers

5:30PM **Conclusion**

CPD GROUP STUDY POINTS AVAILABLE (DAY 1: 6 pts)

Friday, May 18th

- 10.00AM **Registration**
- 10.30AM **Opening Remarks**
 Professor Siobhán Mullally, Director of the Irish Centre for Human Rights
- 10:40AM **Keynote Addresses**
 Judge Gerard Hogan, Irish Court of Appeal, *“Modern Immigration Law – A Policy at War with Itself”*
 Judge Paulo Pinto de Albuquerque, European Court of Human Rights, *“The Rights of Migrants and Refugees under the ECHR: Where are we now?”*
- 11:40AM Discussion / Questions and Answers
- 12:00PM **Panel A: Migration, International Protection and Human Rights**
 Hilikka Becker, International Protection Appeals Tribunal, *“Assessment of protection needs at the International Protection Appeals Tribunal”*
 Raza Husain QC, Matrix Chambers, *“Human rights and refugee law in the UK”*
 Colin Smith, B.L. *“The Rights of Migrants and Refugees: Exploring the role of courts and tribunals: Lessons from Ireland’s Asylum List”*
 Discussion / Questions and Answers
- 1:15PM **Lunch**
- 2:00PM **Panel B: Contested vulnerabilities: International Protection challenges**
 Catherine Meredith, Doughty Street Chambers, *“Human Trafficking, Article 4 ECHR and the role of courts”*
 Siobhán Mullally, The Irish Centre for Human Rights, *“Contested vulnerabilities in access to protection: Human Trafficking Law and Practice”*
 Ciara Smyth, The Irish Centre for Human Rights, *“The positions of the ECtHR, the IACtHR and the Committee on the Rights of the Child on the Immigration Detention of Children”*
 Kathryn Cronin, Garden Court Chambers, *“Key cases in the British context regarding child migrants and asylum seekers”*
 Discussion / Questions and Answers
- 4:00 PM **Conclusion**

CPD GROUP STUDY POINTS AVAILABLE (DAY 2 – 4 pts. DAYS 1&2 – 10 pts)

Keynote Speakers

Judge **Gerard Hogan** is an Irish judge who has served at the Court of Appeal since October 2014. He previously served as a Judge of the High Court from 2010 to 2014. He was educated at University College Dublin, the University of Pennsylvania, Trinity College Dublin and the King's Inns. He was called to the Bar in 1984 and became a Senior Counsel in 1997. He was a law lecturer and fellow in Trinity College Dublin 1982 - 2007. He is regarded as "one of the foremost constitutional and administrative lawyer". He has wide experience in Constitutional Law, Administrative and public law and EU law. His book *The Origins of the Irish Constitution, 1928-1941* was published by the Royal Irish Academy in 2012.

Judge **Paulo Pinto de Albuquerque** is a Judge at the European Court of Human Rights. Before joining the Court, Albuquerque has served as a judge in various civil and criminal courts in Lisbon, an expert with the Council of Europe's Group of States Against Corruption (GRECO), an advisor to the Portuguese Ministry of Internal Administration, and an associate professor at the Universidade Católica Portuguesa (UCP). From 2006, he served as an adjunct professor at the University of Illinois College of Law. He is also a Professor at the Faculty of Law of the Catholic University Lisbon, founding member of the Association of Friends of the René Cassin Foundation, a member of the ILA Committee on International Human Rights Law, a Fellow of the International Penal and Penitentiary Foundation and a member of various International Law Societies.

Speakers

Hilkka Becker is a lawyer with over 20 years professional experience specialising in asylum, migration and human rights law. She was appointed a Member of the Irish Refugee Appeals Tribunal in November 2013. In December 2016, she was appointed Deputy Chairperson of the International Protection Appeals Tribunal in Dublin and, since April 2017, is now the Chairperson of the Tribunal. She is registered to practice in Germany since 1998 and is a practising solicitor in Ireland since 2003. She has long acted in immigration, EU free movement, refugee and citizenship law before the superior courts in Ireland as well as before the European Court of Human Rights and the Court of Justice of the European Union. Hilkka was Senior Solicitor at the Immigrant Council of Ireland – Independent Law Centre up to March 2015. She has since acted as a consultant for the Immigrant Council and also for the International Organization for Migration (IOM) in Azerbaijan. She is a former Regional Legal Advisor with IOM Vienna and has provided consultancy services for IOM offices in a number of Western Balkan states. Previously she has worked as a private solicitor and as Legal Officer with the Irish Refugee Council.

Kathryn Cronin is a member of Garden Court Chambers, with extensive immigration, asylum and family law practice and was ranked for immigration and family law in Chambers UK 2017. Known for her work on asylum and human rights cases on women and children, she authored the handbook 'Children: Immigration and Nationality'. From 1989 to 1996 she was associate professor in law at University of NSW, Sydney, and general counsel to the Australian parliamentary committee on immigration. From 1996 to 2001, Kathryn was commissioner, and then deputy President of the Australian Law Reform Commission. In addition to publishing in Butterworth's Australian Immigration Law Service, Halsbury's Laws of Australia, and Macdonald's Immigration Law & Practice, and lecturing extensively on immigration, refugee, human rights and children's rights issues, she has trained lawyers, NGO's and social workers. She is a founder member and adviser to an Anti-Trafficking Legal Project.

Raza Husain QC specialises in public law, with an emphasis on immigration and human rights. Raza was appointed silk in 2010, and nominated Human Rights Silk of the Year in 2013. In 2013 he was listed in the top 100 silks practising in all fields at the UK bar. He has appeared in over 30 cases in the Supreme Court or House of Lords. In the last 14, he appeared as leading advocate, on each occasion successfully save once. Raza regularly appears before the Court of Justice in Luxembourg and the Court of Human Rights in Strasbourg. He regularly advises and is instructed by the United Nations High Commissioner for Refugees. Raza regularly acts for high profile individuals and has a particular expertise in the interface between extradition, the political motivation bar, and asylum. He has successfully appeared in a number of such cases brought by Russian nationals. He is also regularly instructed and NGOs such as Amnesty International and the AIRE Centre, as well as premiership footballers. Raza retains a deep commitment to and heavy involvement in publicly funded work. Raza has given lectures in refugee and immigration law at the University of Oxford (All Souls' College and the Refugee Studies Centre), the University of London (Institute of Advanced Legal Studies) and Georgetown University, Washington DC, USA.

Catherine Meredith is human rights and public law specialist with particular expertise in trafficking, modern slavery, immigration and asylum including immigration detention. Catherine has a real specialism in cases involving points of EU, ECHR and international law. Catherine acts for claimants and NGOs, including as third party interveners, and has been involved in cases domestically at all levels to the Supreme Court, as well as the European Court of Human Rights and the Court of Justice of the European Union. She has acted as an expert advisor to the Council of Europe and EU Fundamental Rights Agency, as well as UN bodies (UNHCR and UNODC). She regularly speaks, trains, and publishes on topics within her field of expertise. She is Preferred Counsel to the Equality and Human Rights Commission.

Siobhán Mullally is Established Professor of Human Rights Law and Director of the Irish Centre for Human Rights at NUI Galway. Prior to her appointment in NUI Galway she was Professor of Law at University College Cork (UCC) and Director of the Centre for Criminal Justice and Human Rights at the University. Siobhán is also a member of the Permanent Court of Arbitration at The Hague,

the Council of Europe Group of Experts Against Trafficking in Human Beings, the High Council of the European University Institute as well as acting as Ireland Country Expert of EU Network of Experts on Free Movement of Workers and Ireland Country representative on the EU Odysseus Network of Experts on Asylum and Immigration Law. Previously she acted as a legal expert for the UNDP and chaired the Board of the Irish Refugee Council. Siobhán has published extensively on gender equality, asylum and refugee law, migrant rights, human trafficking, and forced labour. She graduated from the René Cassin Institute with a Certificate in Teaching Human Rights Law, UCC with a Bachelor of Civil Law, the London School of Economics with a LLM and from the European University Institute with a PhD.

Colin Smith is a barrister specialising in international and human rights law. He has a particular interest in the law relating to human trafficking. He lectures in international humanitarian law in Trinity College Dublin and has worked in Chambers at the Special Court for Sierra Leone in Freetown and in the War Crimes Division of the Office of the Prosecutor at the Court of Bosnia and Herzegovina in Sarajevo. He is a former Chairman of the Irish Society of International Law and member of the Irish Red Cross International Working Group. He sits on the Board of the Irish Refugee Council.

Ciara Smyth is a Lecturer Above the Bar at NUI Galway. She researches in the area of international, European and Irish refugee law and she is particularly interested in how refugee law and human rights law interact. Before joining NUI Galway, Ciara worked for a number of non-governmental and intergovernmental organisations, including the United Nations High Commissioner for Refugees. From 2012-2015 she was a member - and variously Vice Chair and Acting Chair - of the Board of Directors of the Irish Refugee Council. In 2014 she was nominated by the Minister of Justice and Equality to the McMahon Working Group. In 2016 she appeared before the House of Lords EU Home Affairs Sub-Committee to give expert evidence on the situation of unaccompanied minors in the EU. Ciara holds a PhD from Leiden University, the Netherlands, for which she was awarded a Max Van Der Stoel Human Rights award in 2013; an LL.M in Human Rights (with distinction) from Queen's University Belfast; and an LL.B and B.A. from NUI Galway.

Stefano Angeleri is a doctoral researcher and a graduate teaching assistant at the Irish Centre for Human Rights NUIG. He holds a BCL and a Master's Degree in Law ('magna cum laude') from the University of Milan (Statale) and qualified as a lawyer in Italy in 2012. Stefano's research focuses on social rights and migration and, in 2015, his Ph.D. project, 'The Right to Health of Undocumented Migrants: Between Universality and Sovereignty', was awarded a 4 year-fellowship by the School of Law of NUIG.

Samantha Arnold is a Post-Doctoral Research Fellow at the European Migration Network Ireland based in the Economic and Social Research Institute. She is an Adjunct Assistant Professor at Trinity College Dublin School of Law. Prior to joining the ESRI, Samantha was the Children's and Young Persons' Officer at the Irish Refugee Council. Samantha's research interests include refugee and immigration law and policy and children's rights law.

Patrícia Cabral is a practicing lawyer in Portugal and Mozambique. She completed a Post-Graduation Course in Human Rights at the University of Coimbra after a Degree in Law. Further studies led to a Masters' Degree in International Law from the Nova University of Lisbon, with a particular research focus in EU Justice and Home Affairs and the asylum system. Patrícia has extensive experience in working with a local child protection commission to protect vulnerable children in risk situations and in the NGO-sector as youth worker and victim support volunteer.

Luljeta Caraoshi is an SJD candidate at the University of Toronto. She is researching on the challenges for protection of family related rights of irregular migrants. She has worked as a lecturer at Law Faculty, Tirana University and as legal expert for various organizations such as IOM, OSCE and UN Women. She has published in various journals, such as the Journal of Immigration, Asylum and Nationality Law and the International Journal of Human Rights (co-author). She is recipient of several scholarships, including two Chevening Scholarships.

Tatiana de A.F.R. Cardoso Squeff is a Lecturer in International Law and Conflict of Laws at UNIFIN Law School and IBGEN Law School – Brazil. PhD Candidate in International Law at UFRGS. LL.M in Public Law at UNISINOS (2012). Specialist in the English Language at Unilasalle (2008), in International Law at UFRGS/PPGD (2009), and in Contemporary International Relations at UFRGS/PPGEEI (2015). Visiting researcher at the University of Ottawa (2018) and at the University of Toronto (2011).

Samantha Currie is a Senior Lecturer in law at the University of Liverpool. Her research interests include: the rights of EU nationals under UK law; the rights of non-EU family members accompanying EU migrant workers; the situation of EU migrant children and their carers; and the experiences of migrant workers in irregular employment. Samantha's current research examines the interaction of courts in the UK with government policy on addressing modern slavery and in particular the implications of insecure immigration status for identified victims of trafficking.

Alan Desmond has been a lecturer in law at the University of Leicester since September 2016. Previously, he worked at third-level institutions in Ireland, Italy and Poland. He has published on migrants' rights in the European Journal of Migration and Law, Human Rights Law Review and the European Journal of International Law and recently edited a book on the UN Migrant Workers Convention. He has been a Visiting Researcher at Harvard Law School and UCLA School of Law. Before entering legal academia, Alan worked as a freelance print and broadcast journalist in Poland and wrote a number of award-winning Irish language books.

Abdullah Hamidioglu is a Doctoral Researcher and Research Assistant at the Léon Duguit Research Centre at Paris-Saclay University. He studied law at the Galatasaray University in Istanbul and later pursued an LL.M in Paris. He has worked with the Istanbul Bar Association in Turkey, and with the European Court of Human Rights in Strasbourg.

Mark Klaassen is an assistant-professor at the Institute for Immigration Law. He studied Liberal Arts and Sciences at Roosevelt Academy, Political Science at Warwick University and European

Law at Leiden University. After his studies, he worked for a year as a policy advisor for the Dutch Advisory Committee on Migration Affairs. In 2015 Klaassen successfully defended his PhD dissertation on “The right to family unification: Between migration control and human rights”. Klaassen is the coordinator of the Bachelor courses ‘European Migration Law’ and ‘Immigration law (in Dutch)’. He is an instructor in the Master courses ‘Child & Migration (in Dutch)’ and ‘Migration and Children’s Rights’.

Agnieszka Kubal is a Departmental Lecturer in REES. She joined REES from the Centre for Socio-Legal Studies (CSLS) at University of Oxford, where she continues holding a research post. She was educated in Krakow, Exeter and Oxford with a postdoctoral spell at Harvard, and has an extensive list of publications. Agnieszka’s research has always focussed on dimensions of migration, law and society in Central and Eastern Europe, and recently Russia. Kubal is currently working on two projects: a monograph entitled *Immigration and Refugee Law in Russia: Socio-legal and Comparative Perspectives*, and a co-edited volume on *Sociology of Justice in Russia*.

Noemi Magugliani is a Doctoral Researcher at the Irish Centre for Human Rights. She holds a B.A. in International Relations from the University of Milan (Italy) and an LL.M. in International Human Rights Law and Public Policy from University College Cork. Noemi writes about the connections between trafficking in human beings and the asylum protection system, examining access to protection for adult males victims of trafficking. Prior to being a Fellow at the ICHR, she worked with Nasc Ireland, the Irish Immigrant Support Centre and with Galway Migrant Service.

Karolina Mendecka Karolina Mendecka is a 3rd year PhD student at University of Łódź, Law and Administration Faculty, at the Institute of Theory and Philosophy of Law, with a dissertation on the best interest of the child principle in socio-legal light. In addition to a Master’s degree from University of Warsaw (2010), she is currently pursuing a LL.M. diploma in International Human Rights and Humanitarian Law at Lund University, specialising in cultural diversity and linguistic minority rights, with a thesis on the right to a mother tongue education.

Clíodhna Murphy is a Lecturer at Maynooth University. Her main areas of expertise are migration and human rights, and the intersection between migration law and labour law. Her research analyses the extent to which human rights inform law, policy and practice in these domains. She has published extensively in international peer-reviewed journals. With colleagues in Maynooth University, she has just completed an Irish Human Rights and Equality Commission-funded project on integration policy in the Irish public sector.

Bríd Ní Ghràinne lectures International Law and Forced Displacement at the University of Sheffield. She also teaches on the MA in Refugee Protection and Forced Migration Studies at the Refugee Law Initiative. Her work has appeared in journals such as the International Journal of Refugee Law, Legal Studies, and the Irish Yearbook of International Law. Bríd is also a member of the Council of Europe Expert Working Group on Internally Displaced Persons, and she has acted as a consultant for Greenpeace and Oxford Analytica. Bríd holds a DPhil from University of Oxford;

an LLM cum laude from Universiteit Leiden; and a BCL (International) from NUI Galway. Before commencing her DPhil, Bríd held research positions in the Irish Department of Foreign Affairs and the United Nations International Criminal Tribunal for the Former Yugoslavia.

Maria Papaioannou is a Temporary Agent in European Asylum Support Office within the Information and Analysis Unit. She was an Attorney at Law (Athens Bar Association) and in the period 2013-2015, she presided one of the Appeals Committees (Appeal Authority, Ministry of Migration Policy). She has also worked in NGOs in the field of refugee protection and European institutions, as an Ad.Lecturer (pro bono) at the Department of International, European and Area Studies. She holds a PhD in International Law, BA, MA of International European Studies (Panteion University) and LLB (Aristotle University of Thessaloniki). In 2013, she received the Diploma in Human Rights Law of the Academy of European Law (European University Institute). Her main research interests include international human rights law, the law of international organizations, human security, asylum and migration.

Camilo Perez-Bustillo is Director of Advocacy and Research at Hope Border Institute in El Paso, Texas, located at the U.S-Mexico border, and former inaugural director of the Human Rights Center and Research Professor of Human Rights and Law at the University of Dayton; he is also a Fellow of the Comparative Research Programme on Poverty (CROP, based at the University of Bergen in Norway) and of the program on Poverty and Migration at FLACSO-Guatemala; and co-author of Human Rights, Hegemony and Utopia in Latin America: Poverty, Forced Migration, and Resistance in Mexico and Colombia (Brill, 2016/Haymarket Books 2017).

Venera Protopapa is a Researcher of Labour Law at the Law Department of the University of Verona. She was awarded a PhD from the Graduate School on Political and Social Sciences from the University of Milan. Her research interest focusses on strategic litigation and migrants' rights, with special focus on the role of civil society. She is currently working on an interdisciplinary research project on health and safety conditions for migrant workers.

Amy Weismann is the Assistant Director of the University of Iowa Center for Human Rights and an Adjunct Assistant Professor in Human Rights at the University of Iowa. She teaches core courses in the Human Rights Certificate program. She is an alumna of Bryn Mawr College and the University of Iowa College of Law. Before law school, Amy was a humanitarian aid worker in Croatia, and a resettlement caseworker for the Lutheran Immigration and Refugee Services affiliate offices in Eastern Iowa, and managed programs for a non-profit pursuing conflict resolution work in Bosnia.