

# ON THE RIGHT OF EXCLUSION

LAW, ETHICS AND IMMIGRATION POLICY



**Bas Schotel**

# On The Right Of Exclusion Law Ethics And Immigration Policy

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## **On The Right Of Exclusion Law Ethics And Immigration Policy:**

On the Right of Exclusion: Law, Ethics and Immigration Policy Bas Schotel, 2013-03 First Published in 2011 Routledge is an imprint of Taylor Francis an informa company

**Migrants' Rights, Populism and Legal Resilience in Europe** Vladislava Stoyanova, Stijn Smet, 2022-06-02 Identifies paths for legal resilience against restrictions of migrants rights introduced by the forces of authoritarian populism

Article 8 ECHR, Family Reunification and the UK's Supreme Court Helena Wray, 2023-02-09 How do courts reconcile protecting family life with immigration control in human rights cases This book addresses that question through an analysis of 11 UK Supreme Court decisions on immigration and family life mostly focusing on Article 8 ECHR the right to respect for family life and starting with Huang v SSHD in 2007 The analysis is set against a national context that includes the Human Rights Act 1998 and regular controversies over immigration The book explains how the European Court of Human Rights jurisprudence has developed in recent years but particularly in the absence of children it often still awards little weight to claims by citizens and residents to be joined by family when immigration status is an issue This reflects governments resistance to encroachment on their control over borders The Supreme Court decisions show that despite powers conferred by the Human Rights Act a more nuanced position in domestic law was difficult to articulate and sustain The book explores the way in which these problems were reflected in the changing language argumentation and structure of judgments These problems revealed judges to be strategic actors drawing on personal and institutional values and responding to the shifting political context A more generous reading of Article 8 would be legally coherent but needs wider societal support to be realisable The book ends with a discussion of how if such support were present the jurisprudence could give more weight to the needs of families It is vital reading for anyone interested in families and immigration and in the problems and potential of human rights adjudication

**Research Handbook on the Law and Politics of Migration** Catherine Dauvergne, 2021-04-30 As the law and politics of migration become increasingly intertwined this thought provoking Research Handbook addresses the challenge of analysing their growing relationship Discussing the evolving theoretical approaches to migration it explores the growing attention given to the legal frameworks for migration and the expansion of regulation as migration moves to the centre of the political global agenda The Research Handbook demonstrates that the overlap between law and politics puts the rule of law at risk in matters of migration

**Justice for People on the Move** Gillian Brock, 2020-02-20 Offers a comprehensive framework that can assist in responding to new justice challenges for people on the move

*When Humans Become Migrants* Marie-Bénédicte Dembour, 2015 The issue of migration presents clear challenges to international human rights courts due to its political sensitivity This book contrasts the European and Inter American Courts of Human Rights showing how their rulings differ on this issue It argues that the Inter American Court s approach is more sympathetic to the individuals involved

*Human Security and Human Rights under International Law* Dorothy Estrada-Tanck, 2016-12-01 Human security provides one of the

most important protections a person centred axis of freedom from fear from want and to live with dignity It is surprising given its centrality to the human experience that its connection with human rights has not yet been explored in a truly systematic way This important new book addresses that gap in the literature by analysing whether human security might provide the tools for an expansive and integrated interpretation of international human rights The examination takes a two part approach Firstly it evaluates convergences between human security and all human rights civil political economic social and cultural and constructs an investigative framework focused on the human security human rights synergy It then goes on to explore its practical application in the thematic cores of violence against women and undocumented migrants in the law and case law of UN European Inter American and African human rights bodies It takes both a legal and interdisciplinary approach recognising that human security and its relationship with human rights cuts across disciplinary boundaries Innovative and rigorous this is an important contribution to human rights scholarship Justice and Authority in Immigration Law Colin Grey, 2015-04-23 This book provides a new and powerful account of the demands of justice on immigration law and policy Drawing principally on the work of Adam Smith Immanuel Kant and John Rawls it argues that justice requires states to give priority of admission to the most disadvantaged migrants and to grant some form of citizenship or non oppressive status to those migrants who become integrated It also argues that states must avoid policies of admission and exclusion that can only be implemented through unjust means It therefore refutes the common misconception that justice places no limits on the discretion of states to control immigration *Illegally Staying in the EU* Benedita Menezes Queiroz, 2018-02-22 Principally this book comprises a conceptual analysis of the illegality of a third country national's stay by examining the boundaries of the overarching concept of illegality at the EU level Having found that the holistic conceptualisation of illegality constructed through a combination of sources both EU and national law falls short of adequacy the book moves on to consider situations that fall outside the traditional binary of legal and illegal under EU law The cases of unlawfully staying EU citizens and of non removable illegally staying third country nationals are examples of groups of migrants who are categorised as atypical By looking at these two examples the book reveals not only the fragmentation of legal statuses in EU migration law but also the more general ill fitting and unsatisfactory categorisation of migrants The potential conflation of illegality with criminality as a result of the way EU databases regulate the legal regime of illegality of a migrant's stay is the first trend identified by the book Subsequently the book considers the functions of accessing legality both instrumental and corrective In doing so it draws out another trend evident in the EU illegality regime a two tier regime which discriminates on the basis of wealth and the instrumentalisation of access to legality by Member States for mostly their own purposes Finally the book proposes a corrective rationale for the regulation of illegality through access to legality and provides a number of normative suggestions as a way of remedying current deficiencies that arise out of the present supranational framing of illegality *Noncitizenism* Tendayi Bloom, 2017-10-25 Noncitizens have always been present in

liberal political philosophy Often hard to situate within traditional frameworks that prioritise citizenship noncitizens can appear voiceless and rightsless which has implications for efforts towards global justice and justice in migration This book proposes an alternative Noncitizenism identifies an analytical category of noncitizenship While maintaining the importance of citizenship noncitizenship is another form of special individual State relationship It operates far from a State at its borders and within its territory providing a tool for examining the continuity between sites of engagement and the literatures questions and conclusions relating to them The book argues that an accurate liberal theoretical framework and one which can address contemporary challenges must acknowledge the political relationship of noncitizenship between individuals and States This book is for students and scholars of political philosophy and for those interested in noncitizenship and how it can inform the response of liberal theory citizenship global justice migration studies political theory and policy work A Threat Against Europe? J. Peter Burgess, 2011 The concept of security has traditionally referred to the status of sovereign states in a closed international system In this system the state is assumed to be both the object of security and the primary provider of security Threats to the state's security are understood as threats to its political autonomy in the system The major international institutions that emerged after the Second World War were built around this idea When the founders of the United Nations spoke of collective security they were referring primarily to state security and to the coordinated system that would be necessary in order to avoid the scourge of war But today a wide range of security threats both new and traditional confront Europe or at least as some would say *Migration and the European Convention on Human Rights*, 2021-02-25 This edited collection investigates where the European Convention on Human Rights as a living instrument stands on migration and the rights of migrants This book offers a comprehensive analysis of cases brought by migrants in different stages of migration covering the right to flee who is entitled to enter and remain in Europe and what treatment is owed to them when they come within the jurisdiction of a Council of Europe member state As such the book evaluates the case law of the European Convention on Human Rights concerning different categories of migrants including asylum seekers irregular migrants those who have migrated through domestic lawful routes and those who are currently second or third generation migrants in Europe The broad perspective adopted by the book allows for a systematic analysis of how and to what extent the Convention protects non refoulement migrant children family rights of migrants status rights of migrants economic and social rights of migrants as well as cultural and religious rights of migrants The Constitutional Structure of Europe's Area of 'Freedom, Security and Justice' and the Right to Justification Ester Herlin-Karnell, 2019-04-18 This book explores the implications of freedom as a non domination oriented view for understanding EU security regulation and its constitutional implications At a time when the European borders are under pressure and with the refugee and migration crisis which escalated in 2015 the idea of exploring a constitutional theory for the Area of Freedom Security and Justice AFSJ might seem to be a utopian project This appears especially true in the light of the increased threat of terrorism in Europe and on a global

scale and where the expanding EU security agenda is often advanced through the administrative law path in contrast to the constitutional trajectory. Add to this the prolonged financial crisis which continues to cast a long shadow on the future development of EU integration and which suggests that Europe needs to reinvent itself beyond the sphere of economics. Therefore it is precisely because of the current uncertainties regarding the progress of the EU and the constitutional law project that a constitutional take on the AFSJ is of particular importance. The book investigates the meaning of non-domination and the idea of justice and justification in the area of EU security regulation. In doing so it focuses on the development of an AFSJ, what it means and why it represents a fascinating example of contemporary constitutional law with interacting layers of security regulation, human rights law and transnational legal theory at its core.

**European Societies, Migration, and the Law** Moritz Jesse, 2021. Looks at immigration and asylum legislation and policies in Europe to investigate how immigrants are othered by them.

**Constitutive Justice** William A. Barbieri, 2015-09-15. Both classical and modern accounts of justice largely overlook the question of how the communities within which justice applies are constituted in the first place. This book addresses that problem, arguing that we need to accord a place to the theory of constitutive justice alongside traditional categories of distributive and commutative justice.

[Contingency in International Law](#) Ingo Venzke, Kevin Jon Heller, 2021-04-22. This book poses a question that is deceptive in its simplicity: could international law have been otherwise? Today there is hardly a serious account left that would consider the path of international law to be necessary and that would refute the possibility of a different law altogether. But behind every possibility of the past stands a reason why the law developed as it did. Only with a keen sense of why things turned out the way they did is it possible to argue about how the law could plausibly have turned out differently. The search for contingency in international law is often motivated as it is in this volume by a refusal to resign to the present state of affairs. By recovering past possibilities, this volume aims to inform projects of transformative legal change for the future. The book situates that search for contingency theoretically and carries it into practice across many fields, with chapters discussing human rights and armed conflict, migrants and refugees, the sea and natural resources, foreign investments and trade. In doing so, it shows how politically charged questions about contingency have always been.

*The Evolution of Humanitarian Protection in European Law and Practice* Liv Feijen, 2021-04-01. The last couple of years have witnessed an unprecedented battle within Europe between values and pragmatism and between states' interests and individuals' rights. This book examines humanitarian considerations and immigration control from two perspectives: one broader and more philosophical, the other more practical. The impetus to show compassion for certain categories of persons with vulnerabilities can depend on religious, philosophical and political thought. Manifestation of this compassion can vary from the notion of a charitable act to aid the wretched in their home country to humanitarian assistance for the distant needy in foreign lands and finally to immigration policies deciding who to admit or expel from the country. The domestic practice of humanitarian protection has increasingly drawn in transnational law through

the expansion of the EU *acquis* on asylum and the interpretation of the European Court of Human Rights *Netherlands Yearbook of International Law* 2013 Mielle K. Bulterman, Willem J.M. van Genugten, 2014-05-23 The combination of the words international law and crisis is intriguing and leads to a number of questions How does international law react to crises and what are the typical conditions under which the term crisis is invoked Is international law a vivid field of law due to and thanks to crises Are parts of international law maybe in crisis themselves To what extent has the focus on crises taken away attention from important legal questions in the day to day application of international law And does the focus on crisis undermine analytic progress amongst scholars who might think about crises as being something completely new asking for new answers while ignoring the relevance of the existing international law *acquis* This volume includes eight articles in the domains of human rights law migration law environmental law international criminal law WTO law and European law reflecting upon these pertinent questions basically asking do international lawyers do the things right or do they the right things The *Netherlands Yearbook of International Law* NYIL was first published in 1970 It offers a forum for the publication of scholarly articles of a more general nature in the area of public international law including the law of the European Union

**Making Migration Law** Eve Lester, 2018-03-22 The emergence of international human rights law and the end of the White Australia immigration policy were events of great historical moment Yet they were not harbingers of a new dawn in migration law This book argues that this is because migration law in Australia is best understood as part of a longer jurisprudential tradition in which certain political economic interests have shaped the relationship between the foreigner and the sovereign Eve Lester explores how this relationship has been wrought by a political economic desire to regulate race and labour a desire that has produced the claim that there exists an absolute sovereign right to exclude or condition the entry and stay of foreigners Lester calls this putative right a discourse of absolute sovereignty She argues that absolute sovereignty talk continues to be a driver of migration lawmaking shaping the foreigner sovereign relation and making thinkable some of the world's harshest asylum policies John Locke, Territory, and Transmigration Brian Smith, 2020-12-28 This book examines John Locke as a theorist of migration immigration and the movement of peoples It outlines the contours of the public discourse surrounding migration in the seventeenth century and situates Locke's in depth involvement in these debates The volume presents a variety of undercurrents in Locke's writing his ideas on populationism naturalization colonization and the right to withdrawal the plight of refugees and territorial rights which have great import in present day debates about migration Departing from the popular extant literature that sees Locke advocating for a strong right to exclude foreigners the author proposes a Lockean theory of immigration that recognizes the fundamental right to emigrate thus catering to an age wrought with terrorism xenophobia and economic inequality A unique and compelling contribution the volume will be of great interest to scholars and researchers of political theory political philosophy history of international politics international relations international political economy public policy seventeenth century English history migration

and citizenship studies and moral philosophy



## Reviewing **On The Right Of Exclusion Law Ethics And Immigration Policy**: Unlocking the Spellbinding Force of Linguistics

In a fast-paced world fueled by information and interconnectivity, the spellbinding force of linguistics has acquired newfound prominence. Its capacity to evoke emotions, stimulate contemplation, and stimulate metamorphosis is really astonishing. Within the pages of "**On The Right Of Exclusion Law Ethics And Immigration Policy**," an enthralling opus penned by a very acclaimed wordsmith, readers attempt an immersive expedition to unravel the intricate significance of language and its indelible imprint on our lives. Throughout this assessment, we shall delve into the book's central motifs, appraise its distinctive narrative style, and gauge its overarching influence on the minds of its readers.

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