CONSTRUCTING LABELS FOR TRIAGE:

The EU's struggle to disentangle mixed migration

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MAKING THE CEAS WORK: A NEVER ENDING STRUGGLE

"The reform of the common European asylum system aims to:

- make the system **more efficient** and **more resistant** to migratory pressure

- eliminate **pull factors** as well as **secondary movements**

- **fight abuse** and better support the **most affected member states**" (Council website, 21/11/2018)

"There are significant **structural weaknesses and shortcomings in the design and implementation** of European asylum and migration policy, which the crisis has exposed" (European Commission, 2016)

"Even if the existing EU legislative measures were to be perfectly […], **many problems would subsist.** This is mainly due to the **gaps** and **relatively low common standards of the legislation** and the **low level of solidarity** existing today between Member States" (European Commission, 2008)

PAPER OUTLINE

1. The concept of 'triage'

2. Understanding CEAS as a code for 'triage'

3. Conflicts of values within the EU normative framework: free movement and human rights as countervailing forces

4. Disconnect between the EU code for triage and 'reality'

THE CONCEPT OF 'TRIAGE'

Medical metaphor

- "Triage systems categorise victims in different categories regarding the gravity of damages in order to provide (medical) support to those most in need first." (Perchinig, 2017, 147)

Triage in **wider understanding**

- "Triage is diagnosis infused with power, a decision made with authority. […] Triage is a tool for making order out of chaos, and most importantly for ascertaining value to that order" (Lee, 2004, XXVI).

Useful **critical tool**

- Highlighting deficiencies of migration regime in comparison to medical triage
- Carving out objectifying and dehumanizing dimensions

THE CEAS AS A CODE FOR 'TRIAGE'

Historic rationale: Schengen and loosing control

- Ambivalence towards free-movement → focus on TCNs
- CEAS complements national triage regimes
- Europeanisation reinforced link refugee/host state

Normative structure: stratified access to rights

- A technology of government endemic in Western immigration systems
- Europeanization in grey areas of int'l law → applicant status; temporary & subsidiary protection
- Legitimacy discourse → criteria of 'need': intrinsic, biographical, relational, behavioural

Protection-security nexus:

- Policy innovation must justify its contribution to security → technology of triage
- Enhancing protection linked to more efficient mechanisms of exclusion

NORMATIVE CONFLICTS

Free-movement as a core value

- Conflict with institutional identity & argumentative practice of EC and EP
- Communitization → redistribution of legislative power
- EU standards-setting re-framed as 'balancing act'

Impact of European **human rights regime**

- EU Charter of Fundamental Rights + ECtHR and ECJ jurisprudence weigh in for rights protection
- Broadening of key definitions → more inclusive categories
- 'Rights-enhancing effect' (El-Enany & Thielemann, 2009, 2011; Roos and Zaun, 2014)

Effect of the **'crisis' discourse**

- Altered discursive space bolsters 'threat' frame
- 2016 proposals internalize managerial and security-centred approach

DISCONNECT WITH 'REALITY'

Disconnect between **means and ends**

- CEAS is regulatory: Triage performed by MS
- Dysfunctionality as self-fulfilling prophecy

Disconnect between **label formation and 'human reality'**

- Power asymmetry and insulated policy-making
- Crafting compromizes takes precedence
- Rigidity of labels

CONCLUSION

Built-in inherent bias: uncontrolled movement as threat

- Legitimises mechanisms of selectivity and gradation of rights

Conflict with EU values and rights regime

- Rights-enhancing effect
- But 'crisis discourse' reversing the trend

Structural **disconnect**

- Between regulatory means and colossal objectives
- Between labels and human 'reality'

THANKS FOR YOUR ATTENTION

Suggestions and comments welcome:

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