

Protection Issues and Dilemmas in the Migration / Asylum Interface

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I Migration / Asylum Interface

- Mixed groups, motivations, factors
- Refugees, asylum seekers, economic migrants, other migrants, unaccompanied minors, smuggled persons, trafficked persons
- Same routes, means, confront same procedures and mechanisms
- Irregular or illegal movement
- Human smugglers and traffickers
- Focus on asylum / refugee management system

II Differentiated rationales / causal factors

→ Persecution, war, conflict, loss of national protection

-Vs-

→ Lack of social and economic prospects, lack of migration opportunities, Diaspora community pulling power



III Primary dilemmas

→ Different rights, obligations, standards of treatment

→ Refugees / asylum seekers:

☞ Persecution

☞ Admission, status, standards of treatment

☞ Residence / remainder

☞ *Non-refoulement*

☞ Social and economic rights

☞ Solution for the predicament of exile

III Primary dilemmas continued

→ Economic / Irregular migrants

- ☞ State sovereignty and privilege
- ☞ State, human, social and economic security
- ☞ Terrorism concerns
- ☞ Management, control, regulation and deterrence
- ☞ Cf. The European Pact on Immigration and Asylum

IV Secondary manifestations

- Border controls
- Frontier guards / immigration officers
- Stricter visa requirements
- Carrier sanctions
- Machine – readable passports
- Biometric data
- Detention / removal
- Non- admission
- Interdiction / re-direction
- Non-access to the procedures
- Border externalization
- Trafficking
- Smuggling
- Death on the high seas

V Refugee protection Vs Migrant protection

→ Asserting refugee obligations

- ☞ Distinctiveness
- ☞ Predictability of legal framework
- ☞ 1951 Convention
- ☞ Admission
- ☞ Rights and standards of treatment

→ Migrant protection

- ☞ Institutional “gap”
- ☞ Legal gaps (broad human rights Vs. specificity)
- ☞ UN International Convention on the Protection of the Rights of Migrant Workers and their Families
- ☞ Policy gaps

V Refugee protection Vs Migrant protection Contd

→ Risk factors in refugee vs. migrant duality

- ☞ Rights differentiation
- ☞ Validation vs. devalidation
- ☞ Treatment differentiation
- ☞ Attitudinal differentiation



VI A Comprehensive Approach

- ☞ Differentiated but rights based approach
- ☞ Basic human rights of all and specificity
- ☞ Complementarising legal and policy frameworks and approaches
- ☞ Asylum + open / permissive migration policies
- ☞ Co-operation and collaboration
- ☞ Tackling priority problems

☞ *Rescue at sea*

☞ *Interdiction / admission*

☞ *Trafficking*

☞ *Smuggling*

☞ *New policy issues (climate change: “climate” or “environmental refugees?”)*

☞ *Risk of conflation*