Migration management via the social assistance system?

A human rights based analysis of the asylum sector

Switzerland...
— a multi-level legal framework on social assistance in the asylum sector
— an interesting laboratory for a critical analysis of migration management via social law
— a mirror for migration management in the EU?

Guiding questions

Objectives of migration + social law?

Correlations and contradictions?

What kind of migration management provisions in social law? Level?

Limits set by International and constitutional, probably EU standards, especially human rights?

Remaining margins for managing migration through social legislation on each legal level involved (federal, cantonal or communal)?

Lessons for migration management within the multi-level legal framework of EU migration law?

Goals

— Elaborate on limits and remaining discretion for managing migration

— Highlight objectives and legal standards in «using» other policy areas for migration management than migration law strictly speaking

— Promote human rights based perspective, the importance and impact of social rights in discourse on migration management

Methods

Normative-descriptive approach, with focus on human rights:
— Analysis of law, judgments, legal doctrine…
— …on national, European and International level
— Dialogue with practitioners

First observations

In general
— Opposing purposes – inclusion contra exclusion
— Federal competence for asylum at the bottom of migration law impact on social assistance
— 3 levels of social assistance: refugees, asylum seekers, rejected/irregular persons
— Differences in cantonal implementation of federal law
— Lack of transparency and publicity of provisions

Particular influence of migration law
— Reduction of benefits without regard to needs, and statistical foundation
— Differences according to age, type of housing or ethnicity
— Extent of benefits in kind, esp. accommodation
— Elaborate sanction systems
— Suspension of integration measures