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# From the Law to the Decision: The Social and Legal Conditions of Asylum Adjudication in Switzerland

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*Starting from an ethnography within the State Secretariat for Migrations in Switzerland, this article addresses the issue of discretion in law enforcement by analyzing the conditions in which Swiss asylum caseworkers make their decision. This article argues that social and legal constraints frame caseworkers' practices and favor a strict interpretation of the law when implementing it. If evolutions of legislation have indeed strengthened the law, there are also incentives for strictness through the controls of superiors and peers, as well as through the secondary implementation rules created within the office to orient caseworkers' practices. Nevertheless, this article also shows that the position of the individual caseworkers in the institution, their institutional symbolic capital, the role of their superiors, the group pressure they experience, the countries from which the asylum demands they process originate, as well as caseworkers' institutional socialization, structure their perception of the room for maneuver they can exercise.*

**KEY WORDS:** Asylum policy, Street-level bureaucracy, Law and Society, Discretion, Policy ethnography

## 从法律到决定: 瑞士庇护审判的社会情况和法律情况

本文从瑞士国家移民事务秘书处 *(State Secretariat for Migrations)* 中的民族志出发, 分析了负责处理庇护事务的个案工作者在做决定时的情况, 从而处理了执法部门的自由裁量权问题。本文主张, 社会限制和法律限制会形成个案工作者的实践, 并在实施法律时偏向严格执行。如果立法的发展过程确实强化了法律, 那么同时也会鼓励严格管制上级和同辈, 同样也会对政府部门内创建"次要实施规则" *(secondary implementation rules)* 的严肃性产生激励作用, 进而确定个案工作者的实践方向。尽管如此, 本文还展示了影响个案工作者感知实践可操作空间的几个方面, 它们分别是:个案工作者在机构内的职位、机构的象征资本、个案工作者上级扮演的角色、承受的团队压力、发出庇护需求的国家、以及个案工作者的制度性社会化 *(institutional socialization)*。

**关键词:** 庇护政策, 街头官僚(基层官僚), 法律与社会, 自由裁量权, 政策民族志

## De la ley a la decisión: Las condiciones legales y sociales de la adjudicación de asilo en Suiza

*Empezando con la etnografía dentro de la Secretaría de Estado para la Migración en Suiza, este artículo aborda el problema de la discreción en las autoridades al analizar las condiciones en que los asistentes sociales para el asilo toman su decisión. Este artículo sostiene que los límites legales y sociales enmarcan las prácticas de los asistentes sociales y favorecen una interpretación estricta de la ley cuando se implementa. Si las evoluciones de la legislación han realmente fortalecido la ley, hay*



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*también incentivos para ser estrictos a través de los controles de los superiores y compañeros, así como a través de las reglas de implementación secundaria creadas dentro de la oficina para orientar las prácticas de los asistentes sociales. Sin embargo, este artículo también muestra que la posición de los asistentes sociales individuales dentro de la institución, su capital simbólico institucional, el papel de sus superiores, la presión del grupo que ellos sufren, los países de los que vienen las peticiones de asilo en las que trabajan, así como la socialización institucional de los asistentes sociales, estructuran su percepción del espacio de maniobrar que ellos pueden ejercer.*

**PALABRAS CLAVES:** Política de asilo, burocracia a nivel de la calle, ley y sociedad, discreción, etnografía política

## Introduction

> I conducted an interview with Corinna B.,[1] a 31-year old asylum caseworker working at the Headquarter of the State Secretariat for Migrations. She comments on the decision she will take about two brothers from a Balkan country.
>
> Corinna B.: I must render a decision to dismiss the application without entering into the substance of the case (DAWES),[2] even if, like this morning, the people are very nice. And I even believe that these men could work here, because they already speak the language and they actually want to work for a good reason. They have problems there [in their homeland]. I wish they could stay. But I can't. I must stick to the law. (Interview with Corinna B., December 2011, *translated from French*)

Caseworkers may at times perceive that they have room for maneuver during the decision making process they engage in when reviewing cases. However, under certain conditions, they also feel bound by the rules of law, as well as accountable for the laws they have to apply. In the body of literature on street-level bureaucracy, there are many discussions about the continuation, or on the contrary, the curtailment of discretion that would characterize the work of street-level bureaucrats at the frontlines (Evans & Harris, 2004). Indeed, discretion is a key issue and a key concept in the study of street-level bureaucracy (Hupe, 2013; Hupe, Hill & Buffat, 2015; Lipsky, 2010) and in the sociology of law (Delpeuch, Dumoulin & De Galembert, 2014). Some research and discussions about the continuation or curtailment of discretion among street-level bureaucracies seem to assume a binary alternative between discretion and rule-following (Evans & Harris, 2004; Oberfield, 2010), or even between discretion and law, as Anna Pratt pointed it out (Pratt, 1999). However, observing practices and listening to caseworkers allow us to go beyond this binary juxtaposition between discretion and rule-following.

In this article, I tackle the issue of discretion in another way. I start from the statement that, *in certain situations and conditions*, caseworkers can experience themselves as having certain and limited room for maneuver in the decision

making process, but that they also feel bound by the rules and accountable for the law they have to apply. Thus, very often, caseworkers act in conformity with the institutional prescriptions and expectations, and do not perceive any room for maneuver. This leads me to question the social conditions of both the use of room for maneuver and the conformity of the adjudication practices to institutional prescriptions and expectations. Thus, this article aims to answer three questions:

First, how do Swiss asylum caseworkers make their decisions? This question is designed to investigate whether Swiss asylum caseworkers can have a procedural discretion in their practices and therefore perceive they can use room for maneuver in applying asylum law at specific junctures. Nevertheless, Swiss asylum caseworkers also claim that they only “implement” or “apply the law”, and that they feel bound by the rules, prescriptions, and expectations of the institution in which they work, despite a relative diversity in the profiles and role conceptions of the caseworkers.

Second, I ask: to which extent do they act in conformity with the institutional prescriptions and expectations? With this question, I would like to underline and question whether caseworkers actually act in accordance or conformity with their colleagues and with the institution, despite the relative diversity underlined earlier. Based on data, I argue that there are different social and legal constraints and mechanisms, which frame and guide the practices of the caseworkers and, finally, their perceptions and their uses of room for maneuver. To some extent, they have internalized a certain institutional logic, which they then reproduce in their practices.

My third question is: under which conditions and in which situations do they perceive and use room for maneuver? I argue that Swiss asylum caseworkers can perceive and use their room for maneuver to issue a decision which can run counter to the institutional prescriptions and expectations. This perception is strongly related to asylum caseworker’s institutional and legal capital, to his/her conception of his/her role, and to his/her position in the institution.

To summarize, I reveal the specific conditions under which Swiss asylum caseworkers perceive and use room for maneuver in their work, even though their institution strongly frames their daily practices. As a matter of fact, caseworkers very often act in conformity with institutional prescriptions and expectations, because they have partly internalized and co-produced them. This state of things underlines legal and social constraints in the use of a room for maneuver that tends to standardize the practices of caseworkers. The motives told by the asylum seekers during the interview, caseworkers’ legal and institutional capital—this latter can refer to the institutional experience and responsibilities, legal and practical skills, the position within the institution, etc.—their conception of both their role and that of the asylum, their superiors who control their decisions, the specific “secondary implementation rules” defined by the institution toward the country of origin of the asylum seekers, as well as other social relations (group pressure within the section in which caseworkers work, the threat of a recourse, etc.), all shape their uses and implementation of the law in specific cases.

## Theoretical Discussion

A part of the literature about discretion assumes an alternative between discretion and rule-following (Evans & Harris, 2004; Oberfield, 2010). Anna C. Pratt underlined well that debates about discretion have long been limited by the false discretion/law binary which imagines a clear distinction between those two: "where law ends, discretion begins" (Pratt, 1999, p. 217). Such a conception runs the danger of ignoring the labor of interpretation and the actual uses of the rules by the actors in question. However, studying these concrete uses leads me to state that social actors generally *play with* the rules (Lascoumes & Le Bourhis, 1996), remaining most often *within* the rules—i.e., respecting the rules. Actors face concrete individuals to whom they have to apply the rules, which they interpret according to those specific situations. This is especially true for the asylum caseworkers who are charged with making administrative decisions argued "in law" ("*de jure*"). This characteristic differentiates them from the street-level bureaucrats commonly studied, such as social or welfare workers, teachers, or police officers (Brodkin, 2011a,b; Buffat, 2015; Dubois, 2010; Maynard-Moody & Musheno, 2003; Oberfield, 2014; Smith, 2003; Watkins-Hayes, 2009). In that sense, Swiss asylum caseworkers are closer to judges. I will nevertheless show that the approach in terms of street-level bureaucracy first elaborated by Lipsky (1980) is particularly relevant to understand the asylum administration and how its bureaucrats work on a daily basis.

In my work, I consider law as a "social activity" (Lascoumes & Serverin, 1988) and use a constitutive approach which "serves to focus attention on the way in which law is implicated in social practices, as an always potentially present dimension of social relations, while at the same time reminding us that law is itself the product of the play and struggle of social relations" (Hunt, 1993, 3). With this perspective, I aim to analyze law through its uses and through its social conditions of realization (Dubois, 2009a; Dubois, Dulong, Buton & Chambolle, 2003), which leads me to go beyond the distinction between discretion and rule-following.

Indeed, interpreting rules inevitably involves a room for maneuver (Voutat, 2009), as Ronald Dworkin puts it in his famous metaphor of the doughnut:

> The concept of discretion is at home in only one sort of context; when someone is in general charged with making decisions subject to standards set by a particular authority. Discretion, like the hole in a doughnut, does not exist except as an area left open by a surrounding belt of restriction. It is therefore a relative concept. It always makes sense to ask, 'Discretion under which standards? (Dworkin, 1978, p. 31)

But as Keith Hawkins (quoting Denis Galligan) notes, this metaphor should not lead us to believe that the distinction between discretion and its surrounding standards is clear (Hawkins, 1992, p. 14). Building on his remark, I argue that, in some cases—as for the Asylum Act and the characterization of specific asylum

motives and situations "in law"—rules and standards are not always clear and leave room for interpretation. Moreover, asylum caseworkers can choose to support their decision with certain rules of law and not others.

Peter Hupe shows that discretion is a key concept in legal studies as well as in the street-level bureaucracy studies (Hupe, 2013). Quoting Keith Hawkins (Hawkins, 1992) and Ronald Dworkin (Dworkin, 1978), Peter Hupe explains that, in a juridical perspective, discretion is inherent to the implementation of law. In Keith Hawkins' words:

> Discretion is a central and inevitable part of the legal order. It is central to law because contemporary legal systems have come increasingly to rely on express grants of authority to legal and administrative officials to attain broad legislative purposes. It is inevitable because the translation of rule into action, the process by which abstraction becomes actuality, involves people interpretation and choice. Law is fundamentally an interpretative enterprise in which discretionary behavior is compelled by what Denis Galligan has neatly summarized as the "vagaries of language, the diversity of circumstances, and the indeterminacy of official purposes" [...[3] ].
> Discretion is the means by which law—the most consequential normative system in a society—is translated into action. (Hawkins, 1992, p. 11)

In this juridical view, discretion is set *in* legal rules; it is inherent to the implementation work and to the translation of a rule into an action. In the (Swiss) asylum case, caseworkers translate situations according to rules of law—legally characterizing the cases. In doing so, they use rules of law to characterize situations, interpreting both situations and rules. Thus, rules do not merely frame caseworkers' practices; caseworkers also use and interpret them depending on the situation.

Peter Hupe also shows that discretion in street-level bureaucracy research does not hold a uniform meaning. After having discussed a range of different meanings and the various strands of research tackling this issue, he gives the following definition of discretion:

> When the term rules is reserved for action prescriptions from a formal rule maker, discretion can be seen as granted freedom to act within limits prescribed in a given set of rules. Discretionary authority is the freedom to act within prescribed limits, as granted by a legitimate rule maker. As such this authority may be exercised by a variety of actors, on a range of layers; it is not a prerogative of the individual public servant at the street-level. In contrast to discretion as described in rules, the way freedom is used refers to actual behavior of actors. (Hupe, 2013, p. 435)

Aurélien Buffat (2015) underlines two main dimensions in different definitions of the bureaucratic discretion in the literature. First, the notion of bureaucratic

discretion implies that administrative actors can make choices; meaning they can take decisions autonomously, grounded in their own judgment and interpretation. Second, bureaucratic discretion is always related to a normative context constituted by both formal and informal rules. In that sense, he explains, discretion does not mean that actors are completely free to do what they want without any constraint. Rules and discretion are then two closely related dimensions.

Starting from these considerations and from the idea that room for maneuver is inherent to the application of law, I take here a relational approach of discretion. This approach is defined not only by the rules contained in the Law (the Asylum Act in this case) but also shaped by the secondary implementation rules and other informal rules existing within the organization, as well as social and organizational constraints. Such constraints include institutional prescriptions and expectations, as well as controls and evaluations of the practices and decisions by supervisors and colleagues. This approach is relational because it takes into account the configuration in which a caseworker works and according to which he or she either does or does not perceive room for maneuver. In this regard, my analysis is close to Vincent Dubois' work on the sociopolitical conditions of legal rigor (Dubois, 2005; Dubois et al., 2003).

In this article, discretion is understood as power—a discretionary power—to act or decide within a certain normative context, meaning within the parameters of certain formal and informal rules (legal constraints), and within certain social and organizational constraints. I will mainly speak about two different types of discretion: decisional discretion—which concerns the choice of issuing a decision on an asylum plea—and procedural discretion—which is related to choices made during an investigation of a case which can have great influence on decisions and, consequently, on lives of asylum seekers. To the extent that these two kinds of discretion are different, they are, nevertheless, closely interrelated. They both are types of discretionary power, because caseworkers have, in certain limited circumstances, this power to choose to do something or not during the investigation and to decide one way or another. Nevertheless, this relational approach shows that there are important legal, social, and institutional constraints and logics which orient caseworkers' practices and decisions and which limit their perceived room for maneuver. In this case study, discretion appears to be tightly limited by all these constraints and logics.

Thus, I ask both what makes caseworker perceive and use a room of maneuver and what makes them act more or less "the same way" as their colleagues? Thus, my question addresses both the conformity to the institutional prescriptions and expectations and the uses of discretion. To go further, I question uses of discretion and of the rules in the Swiss asylum adjudication by focusing on the constraints and conditions which guide decisions on specific cases. The broader aim of this article was to analyze the social conditions under which asylum caseworkers make their decisions, and how they perceive and use room for maneuver.

I contend that it is important for us to question whether and how caseworkers actually act in accordance or conformity with their colleagues and with the institution, despite the heterogeneousness of their profiles and conceptions of their role.

The example of Corinna—quoted in the beginning of this article—who explains that she would like to award status (temporary admission or asylum) to the two asylum seekers she interviewed, but then says she finally feels obliged by the rules to take a DAWES—which is probably the worst decision to receive for an asylum seeker—gives insight about how the use of discretion is subject to conditions. Moreover, beyond the case of Corinna, it is interesting to examine how decisions become "obvious" for caseworkers. Thus, after having discussed the heterogeneousness of the practices, I will show that there is a social configuration and social conditions which frame and direct the practices of the caseworkers and, finally, their perceptions and their uses of discretion. Thus, actors sometimes act "*as they ought*" without having concrete reasons to explain their decisions; they are following the pre-established ways of doing and thinking, which are external to them and are not dependent upon what they think about it (Mariot, 2012).

In this paper, I will then link the questions of discretion and of conformity. Considering discretion as inherent to implementation of the law, what ends up being perceived as conformity is also an aspect of making a discretionary judgment, even if it is not perceived as such by the actors. Decisions that deviate from the institutional expectations and prescriptions can be costlier than those that conform. We will also see that the perception of the possibility to make those decisions is related to certain conditions.

## Methods and Data

This article is based on a policy ethnography (Belorgey, 2012; Dubois, 2009b, 2015; Schatz, 2009) conducted between 2010 and 2014, and involved long-term immersion in different fields and with various actors of the Asylum Act. During this project, I had three fieldsites and conducted interviews with employees of the SEM and with lawyers in legal defense services for migrants. My fieldsites were:

1. A reception center of the State Secretariat for Migrations (SEM)[4] between October 2010 and February 2011. I observed interviews of asylum seekers by SEM agents, and I also conducted 13 semi-directive interviews with SEM asylum caseworkers and their superiors.
2. The central office of the State Secretariat for Migrations, from September 2011 to February 2012. I was situated within the department responsible for the asylum procedure and, at that time, for the issues of return as well. I could observe the interviews of the asylum seekers by the SEM officers. I observed how they work, and I attended trainings, department, and section meetings. I conducted 46 interviews with asylum caseworkers and their superiors.
3. Legal Assistance Service for Migrants in a city of the French-speaking part of Switzerland, where I conducted participant observation from February 2011 to August 2011. I augmented this fieldsite experience with a 1-week observation in another service of another city and canton. In 2013, I also conducted 20

interviews with legal assistants and lawyers who are engaged in the legal defense of asylum seekers in Switzerland.[5]

Thus, my research focuses on the social uses of the law by the SEM, by the legal services for asylum seekers, and by the Federal Administrative Court (FAC)—where I conducted a short complementary enquiry through interviews and jurisprudence analysis—and on interactions between these actors. Like other researchers who have studied the immigration or asylum policy implementation (Alpes & Spire, 2014; Darley, 2010, 2014; Eule, 2014; Fassin & Kobelinsky, 2012; Fresia, Bozzini & Sala, 2013; Gill, 2016; Good, 2007; Infantino & Rea, 2012; Jubany, 2011; Kobelinsky, 2013; Lahusen & Schneider, 2016; Lawrance & Ruffer, 2014; Schoenholtz, Schrag & Ramji-Nogales, 2014; Thomas, 2011), I analyze the concrete practices of officials within the SEM with a perspective interested both in the administration and in other actors such as legal services and FAC. Nevertheless, this article is mainly based on the research conducted in the two fieldsites located within the State Secretariat for Migrations (SEM).

## The Social Conditions of Asylum Adjudication

To analyze the social conditions of the asylum adjudication, I will start with a description of the evolution of the Swiss asylum policy and of the Asylum Act. This evolution is characterized by an increasing suspicion of the asylum seekers and by a sophistication and hardenings of the Asylum Act. The asylum policy evolution and the asylum adjudication are characterized by an important tension between this suspicion and a will to limit the immigration on the one hand, and a humanitarian and human rights dimension which favors asylum on the other hand. After reviewing these contextual elements, I will present the conditions in which asylum caseworkers can perceive and use room for maneuver, and how social and institutional constraints frame their practices—making them act in conformity with the institutional prescriptions and expectations, and limiting their perception and use of discretion.

### *Sophistication and Hardening of Swiss Asylum Act*

In Switzerland, since the Asylum Act became effective in 1981, the asylum issue has become recurrent in political debates. Since then, we have seen an increase in the number of rules (*juridification*) or, in other words, the *sophistication* of the law (Miaz, 2017) as it has been revised several times. This evolution of the law has been driven by two main goals: to accelerate the procedures and treatment of the application for asylum and to "fight the abuses". This latter objective based on the polemics about "false refugees" and the "abuses"—which constitute the main frames of the asylum issue—led to a securitization (Bigo, 2002) of asylum and introduced a perspective of promoting a greater control on the demands.

This evolution is important for the daily work of asylum caseworkers. Their work is characterized by the systematic suspicion of the asylum seekers and the

truthfulness of their story, like it has been observed in other European countries (Eule, 2014; Fassin, 2013; Fassin et al., 2015; Fassin & Kobelinsky, 2012; Jubany, 2011; Kelly, 2012; Kobelinsky, 2013; Probst, 2011, 2012; Souter, 2011). Suspicion and disbelief have become institutional practices which frame the asylum casework. More generally, these changes of the asylum policy contributed to its hardening. The following evolutions can be observed:

1. The adoption of measures accelerating the case processing;
2. The adoption of coercive measures (to force the migrants whose asylum demands have been rejected to return to their country of origin);
3. The increase in the motives of inadmissibility of the applications, in the circumstances leading to a negative decision, in the requirements to prove the credibility of the persecutions, and in the obstacles to appealing;
4. The adoption of "dissuasive measures" to come and stay in Switzerland;
5. The development of a discourse on "struggle against abuses";
6. A convergence with the dispositions implemented by the European Union (in particularly with the Dublin Convention);
7. The implementation of an active "Return Assistance" program in order to stimulate the "voluntary returns" (Parini, 1997; Parini & Gianni, 2005; Piguet, 2009; Tafelmacher, 2013).

Another characteristic of the asylum policy changes is the *sophistication* of the asylum law. The term of sophistication refers here to the process through which the legal frame evolves toward a greater complexity, implying a greater number of interrelated legal texts and normative levels, an advanced degree of (technical) drafting, and an important specification of the law according to the motivations of the asylum seekers and to the countries of origin. This process is closely related both to the important politicization of the asylum issue in Switzerland, implying several revisions of the Asylum Act in the Parliament and through referendums, and to the important judicialization of the administrative decisions at the federal level to the Federal Administrative Court (Byland & Varone, 2012; Tanquerel, Varone, Bolkensteyn & Byland, 2011).

Thus, the law is not only more and more complex and changing but it is also more and more specified according to very specific individual motives and situations understood and analyzed in relation with specific countries of origin. The asylum caseworkers' work is then significantly framed by the law and by secondary implementation rules (Lascoumes 1990), which are supposed to guide caseworkers in the investigation and in the decision making of cases. These secondary implementation rules—*Asylpraxis* or "APPA"—are more or less formalized by country. They are elaborated by SEM agents (caseworkers and superiors) and approved by the hierarchy. They present the guidelines for investigation of and decision making on the asylum demands. They aggregate "profiles" from different elements to consider in the examination of the asylum pleas. These rules are very

important because they instruct on how to deal with an asylum plea from a specific country with specific motives.

In the Swiss asylum procedure, asylum seekers are usually interviewed two times. The first hearing is about the personal data (name, surname, date of birth, sex, religion, ethnic group/tribe/etc., country of origin, family, and—briefly—about the motivation for seeking asylum). During the second hearing, asylum caseworkers question the asylum seekers on their motivation in a more detailed manner. These interviews and their confrontation with other means of proof will be the basis for a decision. Caseworkers can ask for other documentation (medical report, query to the embassy, country expertise, linguistic report, etc.). Then they have to determine whether the asylum seekers meet the criteria for refugee according to the article 3 of the asylum act (AsylA).

> Refugees are persons who in their native country or in their country of last residence are subject to serious disadvantages or have a well-founded fear of being exposed to such disadvantages for reasons of race, religion, nationality, membership of a particular social group or due to their personal opinions. (Art. 3, al.1 AsylA)

Caseworkers must decide whether motivations in question are relevant according to the article 3 AsylA—and whether the asylum seekers have given enough "*credible*" proofs[6] to be considered as refugees—according to the article 7 of the AsylA. After this first decision, they must decide if the return is demandable, lawful, and possible. If not, the asylum seekers can receive a subsidiary protection through a temporary admission (TA).

Thus, the asylum caseworkers have several possibilities:

1. (until 2014) a decision of dismissing the application without engaging with the substance of the case (DAWES),[7] which is a decision of non-admissibility (for various reasons) of the demand (some cases unfold in such a way that the asylum seekers do not get a second hearing);
2. a negative decision (reject)—in this case the expulsion is ordered;
3. if the expulsion or the return is not "possible",[8] not "permitted",[9] or not "reasonable",[10] the asylum seekers obtain a F permit, a temporary admission;
4. the recognition of the criteria for a refugee.

The following figure shows the proportion of decision per type between 2009[11] and 2015 (Figure 1). It shows that between 20% and 40% of decisions were those of DAWES related to the Dublin Agreements, allowing to expulse the asylum seekers to another country of the Dublin Space. Before 2014, the addition of decisions giving asylum or a temporary admission did not exceed 40% of the decisions, remaining between a minimum of 18.8% in 2012 and 37.2% in 2010. The proportion of DAWES without temporary admission was significant until 2013 (between 14.2% and 25.5% of the decisions). This significant proportion of DAWES is also related to the context

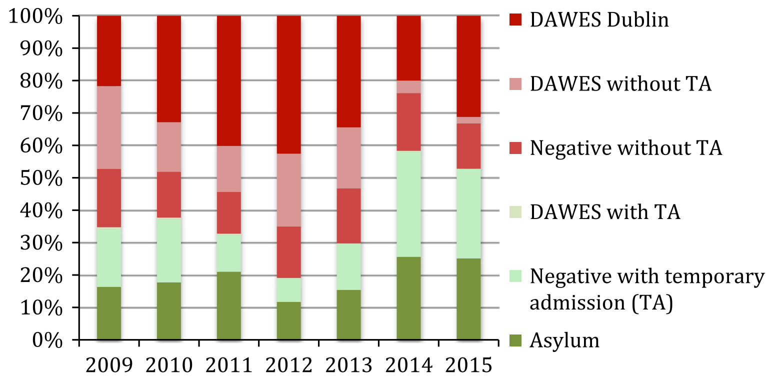


**Figure 1.** Proportion of decisions per type of decision (2009–2015).

Source: Statistics of the SEM.

and flow of the asylum demands and to the priorities of treatment established by the SEM to manage a significant flow of asylum seekers. Thus, since 2011, the number of new asylum demands has increased from 15,567 in 2010 to 22,551 in 2011 and 28,631 in 2012. With the "asylum crisis", the number of new asylum demands increased to 39,523 in 2015. In 2011 and 2012, the SEM reacted to this increase by adjusting processing priorities. These processing priorities asked the caseworkers to make more decisions for cases that could be easily sent back, in order to "empty/free the beds"[12] in asylum seekers centers (federal and cantonal ones).

As I explained, while the law imposes some constraints, its interpretation can leave a relatively wide room for maneuver. According to my analysis, secondary implementation rules and the institutional prescriptions about the interpretation and the application of the law strengthen the framing of the asylum caseworkers' decision making. We can then observe a collective normative power, or to use another term, an organizational power to interpret and create norms, in collectively constructing these secondary implementation norms and in establishing organizational prescriptions (priorities and strategies of treatment). The context of asylum flow as well as the political evolution of the asylum issue in Switzerland also frame the conditions in which Swiss asylum caseworkers work and implement the law.

*Procedural Discretion and Policy-making Issue*

Observing the asylum caseworkers in the State Secretariat for Migration (SEM) shows that there are differences in the ways they "play" their role during the interviews and their investigations of the files. These differences can be interpreted according to SEM agents' conceptions of their role. While Sylvie—who has been an asylum caseworker for more than 10 years in the SEM—explains that she lets the asylum seekers speak and then tries to ask questions to test the plausibility of the story, other caseworkers directly confront the asylum seekers with their potential contradictions. The way caseworkers look for inconsistencies and

contradictions, as well as the way they interpret them, can vary to a great extent. During my fieldwork, I observed different attitudes during the interviews: showing anger, being emotionless or empathetic, etc.

The caseworkers also have different ways of interviewing asylum seekers and of investigating the cases. They can dominate the conversation with precise questions or let someone speak. They can dwell on the inconsistencies and contradictions, or ignore them. Some of them increase the investigation measures—whether to strengthen their conviction in their decision, or to prove a lie in the story—while others only base their decisions on the interviews. I also observed that they sometimes wait to make a decision (which can be in the interest of the asylum seeker) or that they give the priority to certain cases. If these attitudes vary according to the caseworkers, these elements can finally have an impact on the final decision. This demonstrates that caseworkers have an important "procedural discretion" (Brodkin & Majmundar, 2010), which may have a great importance for asylum seekers and for their individual cases. According to Evelyn Z. Brodkin and Malaj Majmundar,

> Caseworkers exercise what we term procedural discretion when they demand face-to-face meetings beyond those required by regulation, set appointment times without regard to claimant circumstances (such as pickup schedules for school children), or schedule multiple claimants simultaneously, producing long waiting times at welfare offices. (Brodkin & Majmundar, 2010, p. 831)

This procedural discretion can have an important impact on the final decision and, consequently, for the individual migrants, on themselves. First, the choices made by caseworkers during the investigation sometimes have consequences on their decision. Two opposite trends illustrate this point. On the one hand, some caseworkers ask many questions during hearings and amplify means of investigation to track sings of incredibility, while some of their colleagues believe that a "reasonable doubt" should benefit the asylum seeker. They can also try to show that the person is not a minor or does not come from the alleged country of origin. On the other hand, for some cases, certain caseworkers will try to look if there are conditions and arguments to give a temporary admission, while some of their colleagues will not do this effort. They can use means of investigation to have sufficient elements to defend this decision toward their supervisors. These two examples show how procedural discretion can, under certain circumstances, have an impact on the final decision.

Second, the choices made by caseworkers during investigations sometimes have consequences on life conditions of asylum seekers themselves. On the one hand, some asylum caseworkers will try to find means to send someone's back to his or her country of origin as soon as possible, rendering a very fast decision and organizing a return. On the other hand, other caseworkers can take more time to give their decision, which allow asylum seekers a (short) time to stay in Switzerland.

This procedural discretion shows that asylum caseworkers and their superiors are "policymakers", as Michael Lipsky meant it (Lipsky, 1980), in the sense that they give concrete expression to the law and policy. They interpret the story told by the migrants according to the law. Thus, to rephrase Alexis Spire, they make a constant work of production, appropriation, and re-interpretation of the rules and of the stories. As such, they play a central role as nodes of translation of the rules (Spire, 2005, 11).

Some of them are also "policymakers" and law producers, in the sense that they are involved in the elaboration of secondary implementation rules—which are institutional rules and practices interpreting the law for specific countries and motives. The practice over gender-related persecutions is one of the rare examples of an evolution through an opening of the refugee definition. In Switzerland, this change came "from below" through the work of individual caseworkers. But this evolution from below should not be reduced to this level of analysis, seeing that it has been made possible owing to conditions of feasibility at the national and international levels (Miaz, 2014). This short example underlines that some policy changes can come from below, even if the general practices trend toward the hardening of the asylum policy and the institutional culture of suspicion and disbelief.

Nevertheless, in recognizing that caseworkers can have discretion, especially procedural discretion, I would like to underline how the institution shapes their individual practices.

### *Juridism of Position*

Although some caseworkers acknowledge they sometimes have a certain room for maneuver, they also state that such room is relatively limited. Then, they tend to insist on a certain rigor in the rules' application, self-identifying with no other role except that of "executant".[13] This legalistic attitude is related to the idea that they are bound to "apply the law", as per Corinna's quote at the beginning of this paper shows. This attitude can be linked to what Vincent Dubois calls "juridism of position" (Dubois, 2005, 2009a)[14] or a "legalist *ethos*". This juridism has here a double function of keeping a distance: first with regard to the emotional dimension of their work, which confronts them with human misery through a strongly asymmetrical relation; and secondly with regard to the political dimension of their work. When I ask Pierre V., asylum caseworker since 1998, about this political dimension, he avoids answering my questions about the evolution of the Swiss asylum policy and repeats that he is just an executant of the parliamentary and popular will. His words illustrate this distant attitude toward the emotional and political dimensions of his job.

Jonathan:

How would you describe the changes that occurred since you have been here?

Pierre V.:

The members of Parliament decide and we apply. That's all. That said, some people say that the law has been hardened. Others say that the law has not been hardened enough...

Jonathan:

What do you notice?

Pierre V.:

I notice that... I simply must apply the law. Full stop. That's the link. That's a part of my job, no matter how is the law. It's a part of my daily activity. I leave this discussion to the public and to the members of the Parliament. That's all. (Interview with Pierre V., January 2011*, translated from French*)

Juridism of position allows falling back on the "force" of the law (Bourdieu 1987) adopted by the "People" to justify decisions that they sometimes would prefer not to take. This tension creates difficulties for some caseworkers, who can experience pangs of conscience when their "moral subjectivity"[15] is in contradiction with the "moral economy"[16] of the institution (Fassin et al. 2015).

Christophe J., 30 years old, explains that he can sometimes experience pain because of his convictions and that he has to "keep it to himself". Speaking about these moral difficulties, he directly specifies he respects the law and what his hierarchy prescribes:

Christophe J.:

But I respect the frame, which is here... when I come at work, I take off my ideas and I respect the rules and the job I'm doing. (Interview with Christophe J., February 2011, *translated from French*)

That is exactly what Corinna B. also explains in the excerpt in the beginning of the paper. She refers to the law and the equality of treatment she has to ensure. This juridism shows how institutional socialization leads asylum caseworkers to internalize a certain institutional logic based on suspicion and disbelief. Those who could have moral conundrums can stand behind the argument according to which the law is legitimate, because it has been adopted by "the People". Thus, applying the law implies that if one wants to give asylum "to those who deserve it", it has to be refused to those who do not fit with its definition.

The logic of suspicion finds its justification (or counterpart) with the "humanitarian" side of asylum: to protect people who are persecuted. That is what Stephanie G., 33 years old, expresses:

Jonathan:

And you told me, that it denatures your role. But what would be your role?

Stephanie G.:

> To give asylum for political motives. Because asylum is political at the basis. Not economical. But now, yes, there are economic migrants, and there will be ecological refugees soon. So, it must be revised, everything has to be revised. Asylum Act has to be revised regarding these new refugees. But now, economic migrants can receive a temporary admission, because we cannot send them back, because they are in too great of a distress in their country. Or for medical cases. Thus, there is a small opening of the Asylum Act, which is not exclusively reserved to people who have been politically persecuted. (Interview with Stephanie G., January 2011, *translated from French*)

In the discourses of SEM agents about the asylum policy and their own role, rigorous attitudes and juridism seem to be a necessary condition "to give protection to those who deserve it". Juridism of position is all the more internalized as the agents can adhere if not to the whole asylum policy, then at least to one of its key elements (protection). Caseworkers have internalized perception schemes where the law appears to be necessary and legitimate. Even if the law is considered as "too strict" or "bad" by some of them, law appears as a "lesser evil" that allows workers like Stephanie G. to give asylum and temporary admission, even if it means to refuse the most part of the asylum seekers. At this step, the importance of the institutional socialization has to be underlined.

### *The Force of Secondary Implementation Rules*

Asylum decisions have to be countersigned by the caseworker and his or her superior. This double signature has variable conditions. Some superiors explain that they "read all the decisions", and others, that they "trust" their own team and don't read their decisions. Others don't read experienced caseworkers' decisions. The institutional capital of asylum caseworkers (experience, specialty, legal training, responsibilities within the institution, etc.), their relationships with their role (how they conceive of and play their role), as well as their superiors', influence the conditions of the double signature.

How superiors perceive the caseworker influences his or her trust in the caseworker him/herself. Conversely, caseworkers explained to me that they have to "pick their battles" if they want to defend a positive decision (temporary admission or asylum) in front of their superior, perceived as a "*Hardliner*"[17] —which is the image of the superior defending a strict policy implementation—or for a country for which the institutional practice is restrictive. On the contrary, a caseworker explained that she had not given any negative decision yet (DAWES or negative decision without temporary admission) because she treated countries to which the secondary implementation rules and the jurisprudence are particularly open, and because her chief was considered as a "*Softliner*" (also called "*Softy*")—which refers to people characterized by some caseworkers as favoring a soft application of the law.

Thus, the combination of the country of origin, the institutional practice or secondary implementation rules related to it, the institutional capital of

caseworkers, their relationships with their role and those of their superiors influence the perception of the possibilities of having room for maneuver in favor of the asylum seekers. Obviously, this positive use of such room for maneuver depends on the moral subjectivity of the caseworkers too.

For Christophe, who was relatively "young" in the office at the time of the interview, the various controls over his decisions lead him to a rigorous attitude regarding the formalized secondary implementation rules. He speaks about the actualization of these controls and about a call to order particularly visible in the institution, which concerned one of his colleagues.

Jonathan:
Because, actually, are you controlled?

Christophe J.:
No, but our decisions are countersigned by our superior who will read the decision and, of course, these temporary admissions or the positive decisions, it's of course more attentively controlled. And then, you really have to have solid arguments, especially to give asylum.

Jonathan:
And only your superiors control you?

Christophe J.:
The superior and, for asylum, the *Federführung*[18] [he refers to the people who are responsible of establishing the secondary implementation rule for the country]... For instance, for [African country X],[19] we are. But it's clear that, after that, countries for which we easily give asylum, like... [two other African countries, Y and Z], I think that's enough to be controlled by our direct superior. But it's clear that for [country X], it's clear that they will want to know why, because there are statistics, which will tell that a [citizen of country X] has received asylum. They will really want to deeply control the file then. I don't see myself... even if I find that there is credibility/plausibility, giving asylum... In other countries, he could have asylum... Just because it's [country X], we won't give asylum, because we have the stereotype that they come in Switzerland for drug trafficking or to deal, and because it's economical motives, thus abuses in asylum. (...)

Jonathan:
Because you have directives about it? For instance, for [country X] or others?

Christophe J.:
Yes, and then, I don't know, for example, one time, there was a colleague who gave asylum to someone from [another African country, W], which made a big noise in the office and the person undermined her credibility, and was called to order by the superiors. (Interview with Christophe J., February 2011, *translated from French*)

This interview with Christophe J. shows different things. First, it shows how, in a culture of suspicion and disbelief, negative decisions are easier to make than positive ones. Whether there are some rare countries for which secondary implementation rules—which are based on an interpretation of the law or jurisprudence, related to a specific country—are more open, for several countries such as the country X, it seems more difficult to make a positive decision.

Christophe J. is relatively young in the office and makes anticipations of the calls to order and sanctions he could be faced with, if he were to make a decision that would be contrary to the institutional prescriptions. The example of his colleague works as a "boogeyman" that hinders him from making a positive decision without a very strong argumentation. He also makes choices grounded in his expectations for a career in the administration. All these expectations play a role in the internalization of the rules and expectations of the institution.

This case is interesting to mention because of the specific conditions under which Christophe's colleague made her decision. She was an experienced caseworker with a high level of institutional and legal capital. Her position in the institution allowed her not to be controlled by her superiors and to make important argumentations in terms of law. She explained to me that her decision was well-substantiated by law and that she finally justified it to her superiors and the SEM hierarchy. She could lean on her legal skills and on a "legal hypertechnical" argumentation to make them recognize that she was right. Her institutional capital and her position in the institution gave her significant room for maneuver because her superiors trusted her (which they still do).

Thus, the position in the institution, as well as the legal and institutional symbolic capital of a caseworker, can allow him or her to perceive a lesser or greater room for maneuver. Obviously, the position in the institution depends also on them having established skills and correspondence with the expectations and the logic of the institution.

Stefan M. is 31 years old and has a degree in law. He also speaks about this possible use of the room for maneuver via a solid legal argumentation:

> Stefan M. makes comments after a second interview that I observed. He disserts about his work in the SEM and the room for maneuver he can have:
>
> (...) So if you make a DAWES, in general, it will easily pass.[20] To the contrary, on a simple case, if you decide on the merits, that's to say a decision with an appeal delay that is longer, and maybe the case was more complex, you have to argue, because the superior will read it and say: "but, well, why do you do that? Why don't you give a DAWES?" And then, it's there that you can use your argumentation and your room for maneuver. (...) (Interview with Stefan M., October 2011, *translated from French*)

But if such argumentation can sometimes be used, like Stefan M. says, caseworkers who would like to make more positive decisions have to "pick their

battles". Corinna B. explains that she is considered as a *Softliner* and that her superiors consider her to be naïve. Thus, she has to choose which cases she really wants to defend in order to increase the odds of some of them passing. Here, her reputation as a *Softliner* is positioned against her because her superiors read more her decisions and accept fewer of her propositions of positive decisions.

*Institutional and legal capitals*

The following case I would like to mention is the one of Sylvie F. Her example is also interesting to mention because it shows how the institutional symbolic capital[21] allows perceiving room for maneuver, and how this perception can evolve over time, improving one's institutional symbolic capital. In Sylvie's example, her experience and legal skills as well as the trust she had from her superior—which is certainly related to her experience, responsibilities, and skills—allows her today to consider herself as having a greater room for maneuver in her decisions than when she was considered a beginner. In her conversation with me she recalls that when she first started in the SEM, she took a negative decision for an asylum seeker to whom she would have liked to give at least a temporary admission. She explains this negative decision by saying that she had to prove herself in her new job. Moreover, her superior at that time could be considered as a *Hardliner* and pushed her to make negative decisions. On the contrary, she explains that now, with her position, she could have made another decision.

Sylvie F.:

> Finally, I regret a little, because it was at my beginnings, I did a negative decision. I was still really…. Let's say that when you begin at the office, you're… not under pressure, but… you have not the same room for maneuver than the one I have now. Now I sign alone my decisions, I am completely … So, at that time, I hadn't the same liberty to give him another decision (Interview with Sylvie F., January 2011)

One can see that the change of her status and the growing institutional symbolic capital within SEM changed Sylvie F. perception of what decisions are possible in a given situation. It is also related to the growing liberty that she benefits in her job because of the trust of her superiors. While, at her beginnings, she had to prove herself, she did not conceive as possible to make another decision than a negative one for this asylum seeker who came from a country for which the secondary implementation rules were restrictive.

Jonathan:

> And you talked about the room for maneuver that you hadn't at the beginning. How's that? I don't see…

Sylvie F.:

Let's be truthful. When you make negative decisions, you're never controlled. Never. The negative decisions are always welcome at the office in a sense. That's... unfortunate, but it's really like the mentality of the office. On the contrary, when you make a temporary admission decision, and even more for an asylum decision, you have to make a proposition of decision. This proposition is then accepted or not by your superior. And when you are at your beginnings, that's more difficult to impose yourself than when you have already some years of experience and some practice behind you. So, I remember that for this case, I would have liked to give him a temporary admission, but... well I couldn't. Now, the question wouldn't be the same anymore, that's clear.

Jonathan:

Because now?

Sylvie F.:

Because now, I have the trust of my hierarchy, and I also have my place here. And it would be really out of place for my superior tells me that my decision is inappropriate. It's something that I wouldn't accept; as I would have myself conducted the interview. So now, let's say that there is no control or pressure. (...) But it depends on the style of the superior. Before, I had a superior that really was a *Neinsager*. (Interview with Sylvie F., January 2011, *translated from French*)

Sylvie F. situates herself as being politically left-oriented in the institution[22] in comparison with her colleagues in the office. She opposes her political sensitivities to the ones of those she calls *Neinsagers* or *Hardliners.* She explains that she processes many files, which have to be dealt with quickly, generally pertaining to countries for which the institutional practice is predominantly negative. Her example shows that not every caseworker in the SEM adheres to the whole line defined by the office and can—under certain conditions and in differentiated ways—have certain room for maneuver in their practices to act according to their "moral subjectivity".

Nevertheless, the use of this room for maneuver cannot be unlimited. Wandering too often from the line prescribed by the institution can expose one to calls to order as well as to the ostracism of the colleagues. That is what explained Claudine L., 55 years old and in the SEM for more than 20 years, who refused to make DAWES at the beginning. She told me during an interview that she finally decided to make such decisions because she had to face reprimands of her colleagues who argued about the equality of treatment. The ostracism of the colleagues, the anticipation of calls to order, the measures of control, and the consequences for a career in the administration[23] and the legalist *ethos*, all contribute to the conformity of the asylum caseworkers to the institutional prescriptions. Through those examples, one can see that the use of discretion with regard to a decision that is in conformity with the institutional expectations and

prescriptions is usually less costly. The perception and the use of this room for maneuver appear to be related to certain conditions, among which the institutional symbolic capital of the SEM agent, his/her position in the institution, and his/her relationship with his/her superiors are particularly important.

Finally, the institutional socialization—such as trainings, learning by doing (under the supervision of experienced colleagues), the relationships with one's colleagues, the need to prove oneself—as well as the selection, during recruitment, and the self-selection of employees (Oberfield, 2012) also contribute to a certain conformity within a given institution. During the process of institutional socialization, caseworkers internalize institutional categories of thinking and ways of working, which guide their perceptions of the cases. Hence, a discourse that runs through the different interviews and discussions with asylum caseworkers is that of a certain "*feeling*" developed about lies. "When someone lie, you can feel it". Recently, a young asylum caseworker I spoke with told that, at the beginning, he trusted every asylum seekers and that, now he has some practice, he knows when someone lies or not. This internalization of what makes a story credible/plausible for the institution versus what makes a story a lie is an example of the institutional socialization, which shapes and frames the caseworkers' perceptions and behaviors.

## Conclusion

If the cases I presented above are examples of people who act against the hard line of the office, the general norm seems to be conformity with this line. In my analysis, I show there is room for maneuver for the caseworkers, but that it can vary according to their position in the institution, their institutional symbolic capital, their superiors, their colleagues, and the countries from which the asylum pleas they process originate. The institutional socialization also acts to guide the caseworkers' perceptions and behaviors. Thus, I tried here to show that, while there is room for maneuver and (procedural) discretion for asylum caseworkers, there is also an important legal and social apparatus for directing the practices of the agents. The institution frames and constraints structure the work of legal qualification, investigation, and decision making pertaining to the asylum pleas.

Sociology of law and street-level bureaucracy studies have stated time and again, with reason, that bureaucrats and judges have room for maneuver or discretion during their interpretation of the law and its implementation. Research has highlighted the power of the jurists, judges, and bureaucrats to "say the law". Pierre Bourdieu proposed a binary opposition between "*droit et passe-droit*" (law and favor) (Bourdieu, 1990), while others juxtaposed discretion and rule-following or continuation of the discretion as curtailment of rule-following. In response to Pierre Bourdieu, Pierre Lascoumes and Jean-Pierre Le Bourhis talked about "*passes du droit*"[24] (Lascoumes & Le Bourhis, 1996) to highlight that law allows a space for interpretation and that law offers "passes" to act with the law, but within the law.

In this article, I tackled the issue of discretion beyond a "discretion/rule-following" or "discretion/law" binary. To me, the existence of room for maneuver is inherent to the interpretation and implementation of the law and to the legal

work. I showed that discretion and room for maneuver should be analyzed through their conditions of possibility and with attention to the fact that their perception is also socially determined.

I also tried to tackle the issue of discretion differently. I argued that if caseworkers have discretion and room for maneuver under certain conditions, it is also interesting to analyze what can explain conformity within the institution. The force of institutional socialization and internalization of the institutional prescriptions and expectations can be related to the ways people sometimes act "as they ought", as institutions sometimes think (Douglas, 1986) and even feel (Fassin et al., 2015) for them.

## Notes

1. All the names of the people encountered during my fieldwork have been changed.
2. This kind of negative decisions has been abrogated in 2014. It is known in French as "*décision de non-entrée en matière*" (NEM) and in German as "*Nichteintretenentscheid*" (NEE). For different reasons, which were enumerated in the articles 32 to 35 of the Asylum Act, the caseworker could decide to dismiss the application without entering into the substance of the case. This opened a shorter appeal deadline: 5 days (while it is of 30 days for an "ordinary" decision examining the substance of the case).
3. Hawkins quotes Denis Galligan (1986).
4. During my fieldwork, the SEM was called Federal Office for Migrations (FOM). The name changed in 2015. Because of that, in this paper, I sometimes use the word "office" to refer to the SEM.
5. Through these observations and interviews, I could reach 10 different legal assistance services for migrants (located in eight different cantons) and two private law offices in Switzerland. This was important because while the asylum procedure is a federal competence, the legal assistance services for asylum seekers are organized within the cantons.
6. The hearings and the answers the asylum seeker brings to the questions of the SEM agent constitute generally the main (or even the only) element of proof on which the state employee has to base him/herself for his/her decision. The asylum seeker thus has to make credible his/her own story and his/her motives during the hearing(s).
7. In French, these decisions are called "*décision de non-entrée en matière*" (NEM) and, in German, "*Nichteintretenentscheid*" (NEE). For different reasons, which were enumerated in the articles 32 to 35 of the Asylum Act, the caseworker could decide to dismiss the application without engaging with the substance of the case. This opened a shorter appeal deadline: 5 days (while it is of 30 days for an "ordinary" decision examining the substance of the case). This kind of negative decisions has been abrogated in 2014. A revision of the Asylum Act adopted by the Parliament in December the 14th 2012 abrogated the articles 32 to 35 of the Asylum Act, which ruled the motives of DAWES. During my fieldwork, these decisions were possible and represented around 15% of the decisions that were made.
8. The enforcement of removal is not possible if there are "technical" motives or circumstances that prevent the return.
9. According to the law, the enforcement of removal is not permitted if it is contrary to Switzerland's obligations under international law. In French, the term that is used is "*illicite*", and in German it is "*nicht zulässig*".
10. According to the law, the unreasonableness is related to humanitarian reasons. In French, the term that is used is "exigible", and in German it is "unzumutbar". The enforcement of removal may be unreasonable if the asylum seeker is endangered by the situation prevailing in the country of origin (civil war, war, general violence). The unreasonableness of the enforcement of removal order may also concern "vulnerable persons" and people with medical grounds (see: Fassin, 2010; D'Halluin, 2016).

11. 2009 is the year when the Dublin Agreement became effective in Switzerland.
12. In an interview, Georg Stutz, a director of division explained to me their decision: "Once, I said: we'll empty the beds ["*on va vider les lits*"]. Now we do all we can do to expulse them ["*renvoyer*"]. Like that, people leave and it frees the beds that we extremely need. [...] It's not worth it if we make decisions and if we cannot expulse. People are still here. [...]" (Interview with Georg Stutz, July 2012) (fictional name).
13. It has to be specified that this section is based more on what agents state—meaning, on what they say about what they do—than actual observation of what they do. Indeed, the fact that they say that they only strictly "apply" the law does not mean that they act as strictly as they state it. The "juridism of position" is above all else a discourse and a statement of asylum caseworkers.
14. My analysis is closely related to these articles, from which I started my reflection about discretion.
15. According to Didier Fassin, "moral subjectivities refer to processes by which individuals develop ethical practices in their relationships with themselves or others. They attest to the autonomy and freedom of agents, notably within contexts in which opposing values can come into conflict, contradictory sentiments can create tensions, or political injunctions can run counter to professional ethos" (Fassin et al., 2015, p. 9).
16. "Moral economies represent the production, circulation and appropriation of values and affects regarding a given social issue. Consequently, they characterize for a particular historical moment and a specific social world the manner in which this issue is constituted through judgments and sentiments that gradually come to define a sort of common sense and collective understanding of the problem" (Fassin et al., 2015, p. 9).
17. I quote here the terms—*Hardliner* (or *Neinsager*) and *Softliner*—that are used by the caseworkers themselves. These terms have a negative (or, at least, a caricature) meaning.
18. In German, "*die Federführung haben*" means to "have the lead". Within the SEM, this term is used in different ways. It refers, at the same time, to the specific "practice" of the office related to a country of origin, to the responsibility of this practice, and to the person or the group of people responsible for determining this practice.
19. In accordance with my agreement with the SEM, I am not allowed to give exact names of these countries.
20. He use the French expression: "ça passera comme une lettre à la poste".
21. I refer to the symbolic capital (Bourdieu, 1994) specifically related to the institution.
22. She explained to me this point while tracing a line on a paper and placing herself at the left side, close to the center of the line.
23. This analysis is also inspired by the work of Christopher Browning in his book *Ordinary Men* (Browning, 1998).
24. The notion of "*passes du droit*" refers to the opportunities, resources and constraints that rules contain. These opportunities give the actors internal *passes* to strategically play with and within the rules.

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