(De)Constructing Ideas of Security: Discovering an Alternative to the European Union External Border Control

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ABSTRACT

The 'immigration crisis' of 2015, as well as the increasing reluctance of European Union (EU) countries, such as Poland to accept asylum seekers, has been a prominent topic of discussion in recent years. Numerous migrants were compelled to undertake a perilous expedition and perish at the threshold of Europe in a bid to flee hazardous conflicts in their countries of origin. This issue has raised doubts about the EU's commitment to maintaining its foundational humanitarian principles, as outlined in Article 2 of the Treaty on European Union. By employing a qualitative research methodology and (Just) Securitisation Theory–which falls under the paradigm of social constructivism–as an analytical tool, the author focuses on the legal aspect and the practical methods safeguarding external borders of the EU, namely the European Union Naval Force Mediterranean (EUNAVFOR MED), as a response to the increase of migration. Given this basis, this study concurs that the EU strategy to migration management has not adopted a comprehensive security approach, which results in the neglection of the safety of asylum seekers. Second, EU law instruments regarding migration curtails the free movement of people, and thus are discriminatory towards asylum seekers. Third, EUNAVFOR MED is insufficient in ensuring the security of migrants, and yet its securitising moves are disproportionate to the threat in the region.

Keywords: European Union, Border Control, Securitisation, Just Securitisation Theory, EUNAVFOR MED

ABSTRAK

'Krisis imigrasi' pada tahun 2015, serta meningkatnya keengganan negara-negara Uni Eropa (UE), seperti Polandia, untuk menerima para pencari suaka, telah menjadi topik diskusi dalam beberapa tahun terakhir. Banyak migran terpaksa melakukan ekspedisi berbahaya dan tewas ketika mencoba mencapai garis pantai Mediterania dalam upaya untuk melarikan diri dari konflik di negara asal mereka. Isu ini menimbulkan keraguan akan komitmen UE dalam mempertahankan prinsip-prinsip kemanusiaan yang mendasar, sebagaimana diuraikan dalam Pasal 2 Perjanjian Uni Eropa. Dengan menggunakan metodologi penelitian kualitatif dan Teori Sekuritisasi sebagai alat analisis, penulis memfokuskan penelitian ini pada aspek hukum dan metode sekuritisasi praktis UE dalam menjaga perbatasan eksternalnya, yaitu European Union Naval Force Mediterranean (EUNAVFOR MED), sebagai respons terhadap meningkatnya migrasi. Dalam hal ini, artikel ini berargumen bahwa Strategi UE dalam manajemen migrasi belum mengadopsi pendekatan keamanan yang komprehensif, yang berakibat pada terabaikannya keselamatan para pencari suaka. Kedua, Instrumen hukum UE terkait migrasi telah membatasi pergerakan bebas manusia, dan dengan demikian bersifat diskriminatif terhadap para pencari suaka. Ketiga, EUNAVFOR MED belum cukup dalam menjamin keamanan para migran, dan langkah pengamanannya tidak proporsional dengan ancaman yang ada di wilayah tersebut.

Kata Kunci: Uni Eropa, Pengamanan Perbatasan, Sekuritisasi, Just Securitisation Theory, EUNAVFOR MED

Introduction

The world has experienced a number of turbulences on both the domestic and international stage over the past decade. Armed conflict escalations, the rise of oppressive regimes, and political turmoils in various parts of the world, such as Afghanistan, Syria, Iraq, and sub-regions of Africa, have brought numerous humanitarian issues that both question the centrality of the state's involvement in conflict resolution and undermine its ability to respond to their consequences. Consequently, these long-standing series of conflicts have caused tremendous damage and loss of life that forced many people to seek refuge, which eventually led to the so-called 'European Refugee Crisis' that culminated in 2015. In light of this, there had been approximately 900,000 asylum seekers who reached the coasts of Europe since the start of the year.[1] This number had been particularly worrying, since it was also accompanied by the loss of 3,550 lives who found themselves stranded in the Mediterranean Sea while embarking a perilous journey to reach Europe.[2]

Along with the high number of asylum seekers, the course of actions that European countries had to undertake in responding to this phenomenon also varied. In other words, 2015 was a decisive year to spectate the capacities and willingness of European countries to respond to this emerging challenge. Against this backdrop, statements of public officials and mainstream narratives have greatly reflected how a state takes the safety and rights of people into account. One striking example of this is depicted by Poland's refusal to accommodate any immigrants in a European Union (EU) 2015 deal which aimed to distribute 160,000 refugees among various EU member states.[3]

As will be shown by depictions of the immigration issue by the media and the opinions of the general populace in Poland, anti-immigrant sentiments were particularly high in this country. For instance, Mariusz Błaszczak, who was the Interior Minister of Poland at that time stated "By accepting migrants into Poland, the government would put a ticking time bomb on us, and we are here to defuse that." In another statement by the Prime Minister of Poland, Beata Szydło said that she did not see any possibility of accepting migrants into the country.[4] At a broader level, a study that was conducted by the *Centre for Research on Prejudice* in 2013 found that 69% of Poles did not want to accept 'non-white people' living in Poland.[5]

The xenophobic narratives and expressions that lead to acts of persecution are clearly visible in Polish domestic conditions. However interestingly, the reality in which Poles have been vehemently rejecting 'outsiders' contrasts when examining the fact that Poland is also a country that has hosted over 1,4 million Ukrainian refugees within the span of eight months in 2022.[6] Although they were only provided temporary refuge, this number exceeded more than a hundred times the number of refugees that Poland received in 2015, during which only approximately 1,000 asylum seekers managed to get

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[1] William Spindler, "2015: The Year of Europe's Refugee Crisis," UNHCR, 8 Desember 2015, https://www.unhcr.org/news/stories/2015/12/56ec1ebde/2015-year-europes-refugee-crisis.html.

[2] Ibid.

[3] Jan Cienski, "Why Poland Doesn't Want Refugees," Politico, 21 Mei 2017, https://www.politico.eu/article/politics-nationalism-and-religion-explain-why-poland-doesnt-want-refugees/.

[4] "Poland Slams Door on Refugees," POLITICO, March 23, 2016, https://www.politico.eu/article/poland-slams-door-on-refugees-beata-szydlo/.

[5] Adam Leszcynski, "Poles Don't Want Immigrants. They Don't Understand Them, Don't Like Them." The Guardian, 2 July 2015, https://www.theguardian.com/world/2015/jul/02/poles-dont-want-immigrants-they-dont-understand-them-dont-like-them.

[6] "Refugees from Ukraine in Poland," Relief Web, 28 November 2022, https://reliefweb.int/report/poland/refugees-ukraine-poland-profiling-update-september-2022-enpl#:~:text=More%20than%207.4%20million%20refugees,number%20among%20the%20EU%20countries.

into Poland.[7] This double-standard and hypocrisy became more magnified when Paweł Szefernaker praised Poland's swift response in assisting Ukrainian citizens by sheltering and providing collective accommodation checkpoints for them.[8] This phenomenon suggests an anomaly, especially in the context of EU, in which it contradicts humanitarian values that the EU upholds, as mentioned in the Article 2 of the Treaty on European Union which states that "The EU is founded on the values of respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights, including the rights of persons belonging to minorities."[9]

As showcased in the example of Poland, the reception of migrants in this European Union country tends to be surrounded by negative sentiments–which has been worsened by the different treatment of migrants which differ from one group to another. Similarly, the issue of mass migration in the Mediterranean Sea should also be taken into account since it has resulted in stringent and lethal border control. This issue raises a question in the broader bordering regime in Europe: "Why does the EU still maintain its *status quo* in its bordering policy despite its values as a promoter of human rights as stated in its Article 2 of the Treaty on European Union?" In answering this research question, the author argues that the EU dismisses the safety of migrants, especially asylum seekers, by conserving traditional notions of security in dealing with immigration issues instead of adopting a comprehensive security approach. This conception of traditional security may be traced back to the EU's law instruments concerning immigration. By defending the *status quo*, the EU has perpetuated the narrative of migrants as a constituent of threat, instead of a referent object which has been enabled by discriminatory legal products on immigration and various militarised approaches in migration management, namely the European Union Naval Forces in the Mediterranean (EUNAVFOR MED).

Methodology

The author employs a qualitative research methodology to conduct this study. By utilising this approach, the author aims to better understand the underlying cause and mechanism behind a specific phenomenon, namely the neglection of basic rights for asylum seekers despite the EU's promotion of human rights as encapsulated in its Article 2. This methodology seeks to find data with the choice of theory and match it in order to formulate a conclusive result. In this regard, this paper is based on literature research gathered from journal articles, books, and other internet resources. In addition, due to the normative nature of the utilised theory, this paper also suggests several key recommendations at the end of the analysis chapter.

Theoretical Framework

a. **Constructivism as a Perspective in Analysing Norms and Values on Immigration Issues**

The social theory of Constructivism may offer a further explanation on the construction process of norms, narratives, assigned identities, and perceptions concerning immigration issues. The main

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[7] Adam Leszczyński, "'Poles Don't Want Immigrants. They Don't Understand Them, Don't like Them,'" *the Guardian*, July 2, 2015, https://www.theguardian.com/world/2015/jul/02/poles-dont-want-immigrants-they-dont-understand-them-dont-like-them.

[8] "In Brussels, Deputy Minister Paweł Szefernaker Presented a Report Summarising Poland's Efforts to Help War Refugees from Ukraine - Ministry of the Interior and Administration - Gov.pl Website," Ministry of the Interior and Administration, accessed October 10, 2023, https://www.gov.pl/web/mswia-en/in-brussels-deputy-minister-pawel-szefernaker-presented-a-report-summarising-polands-efforts-to-help-war-refugees-from-ukraine.

[9] European Union, "Consolidated Version of the Treaty on European Union" (Official Journal of the European Union, October 26, 2012), https://eur-lex.europa.eu/resource.html?uri=cellar:2bf140bf-a3f8-4ab2-b506-fd71826e6da6.0023.02/DOC_1&format=PDF, 5.

assumption of this paradigm posits that meaning is ascribed via the process of social construction. Identities are constructed through social interactions, whereby an individual's perception of another person's behaviour influences the perceived identity and subsequent response to it. On the other hand, the viewpoints of others play a crucial role in individuals' process of self-identification, as they contribute to the formation of personal meaning and affect one's overall interactions with others. In this regard, a shared understanding, or '*intersubjectivity*' subsequently produces a structure, which is a deep-rooted set of identities and interests.[10] This collection of shared meanings exerts impacts on the interactions of those that exist within the structure.[11] As a result, the sustenance of an idea becomes dependent upon the collective actors' belief, until that idea either transforms or gets relinquished.

In the context of security issues, Alexander Wendt argued that the concept of 'threat' does not exist independently, and thus is not given. Rather, it is an idea that is socially constructed and its meaning is constructed through intersubjective interactions: by dialogue and discourse.[12] Within this framework, 'construction processes' such as political speeches and media coverage are the variables that form a perception of threat. Thus, the perception of 'security' is also a context-specific concept which is defined by an actors' (usually states) traditional ideas of national security which are formed by material factors, such as military capability. Additionally, this perception of security puts an emphasis at the national level and state-centric approaches which primarily focus on the military threats to the security of the state.[13] More often than not, this approach ignores individuals as an element that needs to be secured (referent object)–which eventually highlights the importance of human security.

b. Unmaking the Threat of Immigration Issues: Human Security as an Alternative Approach

In touching the issues of human security and their relations to bordering policy for asylum seekers, one should first critically examine and move beyond traditional security notions. Since the end of the Cold War, security studies had undergone a conceptual reform: the deepening and widening of security, in which 'security' no longer revolved around the issues of national security threats.[14] As a consequence, there was an urgency to expand and deepen the concept of security. In this context, the 'expansion' of security refers to an understanding of security studies that needed to include various non-military issues outside of the national security realm. On the other hand, 'deepening' implies the use of a theoretical approach that connects the understanding of security with assumptions in political issues more broadly, in the sense that the conception of security has evolved in response to the emergence of a variety of issues as well as non-state actors, or even the state itself, as the most fundamental sources of threat.[15]

As a branch of study stemming from Critical Theory, the Welsh School of Security Studies has brought numerous ideas from epistemological criticisms of traditional security. In this context, the process of obtaining security (*securitisation*) should be based on 'emancipatory politics', which refers to an idea that the pursuit of security should seek to lift people out of oppression and move beyond

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[10] Alexander Wendt, "Constructing International Politics," *International Security* 20, no. 1 (1995): 71-73.

[11] Alexander Wendt, "Anarchy is what states make of it: the social construction of power politics," *International Organization* 46, no. 2 (Spring 1992): 397, https://doi.org/10.1017/S002081830002776.

[12] Columba Peoples and Nick Vaughan-Williams, *Critical Security Studies: An Introduction*, (London: Routledge, 2014), 22.

[13] Ibid., 18-19.

[14] Peoples and Vaughan-Williams, *Critical Security Studies: An Introduction*, 35.

[15] David Mutimer "Critical Security Studies," in *Routledge handbook of security studies*, ed. Myriam Dunn Cavelty and Henry Balzacq (New York: Routledge, 2017), 113.

sources of insecurity: to have the *freedom to* and the *freedom from*.[16] This idea forms the central foundation of Welsh School and how the term 'security' is conceptualised. Welsh School scholars argue that post-Cold War international order can be described as an 'interregnum' between a state-centric and a 'borderless' world system. Departing from this point of view, this school of thought elaborates on its idea of post-Cold War 'security,' which might be translated as 'absence of threats.'[17] Security and insecurity are two interconnected components in this situation. The traditional concept of security implies the existence of a security dilemma which can be interpreted as a struggle in pursuit of security between two or more opposing countries. Consequently, there are actors that are deemed secure, while others face a degree of insecurity. As a result, this school of thought contends that 'real security' cannot be established if there are parties who undermine the security of others.[18]

c. Just Securitisation Theory as a Stepping Stone towards Moralised Securitisation Practices

In responding to existential threats, securitising moves are deemed essential as they carry the capacity to securitise a certain referent object. Just Securitisation Theory (JST) is an alternative perspective in the field of security studies which provides a justified moral basis and a normative framework for understanding security theory. As a positive outcome of the moral limitations of securitisation, JST has the potential to reduce the likelihood of unrestrained securitising moves, as well as to 'democratise' the process of securitisation. This outcome is considered favourable since securitisation is a recurring aspect of international relations–which also holds true for conflict–and thus, it is imperative to pay attention to the moral implications of securitisation.[19] Based on the principles of just war theory, JST asserts that there are five specific criteria that must be met in order to assess the ethical correctness of securitization: 1) an objective existential threat must be present; 2) the referent object must be morally legitimate, which means that the referent object should be instrumental to human well-being and should be entitled to defend themselves; 3) the just cause of the securitisation move depends on the intention of the securitising actor towards the referent object; 4) the securitising move should be conducted proportionally to the given threat 5) the securitising move must have a reasonable probability of success.[20]

The first criterion contends that not all existential threats are considered security issues, as they depend on the social construction in which they are built upon. Securitisation might be deemed justifiable just when it pertains to an objective existential danger, and thus collateral damage is only permissible when there is a clear and verifiable existential threat.[21] However, this raises the question of threat legitimacy, by which the distinction between objective and perceived threats should be taken into account. In order to examine these elements, one should first analyse the intention of the aggressor in relation to a referent object. This aspect may be done by conducting a comparison of an actor's speech act (what they *say*) and their actions. Additionally, the capability in which the aggressor can exert should

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[16] Ken Booth, Theory of World Security (Cambridge ; New York: Cambridge University Press, 2007), 110.

[17] Ken Booth, "Security and Emancipation," *Review of International Studies* 17, No. 4 (1991): 319, https://www.jstor.org/stable/20097269.

[18] Peoples and Vaughan-Williams, *Critical Security Studies: An Introduction*, 47.

[19] Rita Floyd, "Can Securitization Theory Be Used in Normative Analysis? Towards a Just Securitization Theory," Security Dialogue 42, no. 4-5 (August 2011): 430, https://doi.org/10.1177/0967010611418712.

[20] Rita Floyd "The Morality of Security: A Theory of Just Securitisation," European Journal of International Security, February 28, 2022, 249-250, https://doi.org/10.1017/eis.2022.3.

[21] Floyd, "Can Securitization Theory Be Used in Normative Analysis? Towards a Just Securitization Theory," 431.

be calculated, as well in assessing whether a threat is considered existential or only perceived. In this respect, it is important to underpin any incongruities between an aggressor's speech act and actions as they may indicate a lack of sincerity.[22]

Furthermore, the second criterion suggests that the justification of securitisation should be based on its contribution to the quality of human life. This premise further posits that although there is no consensus on human well-being, there are two fundamental ideas that act as indicators for objective well-being and must be present in the securitisation process: human rights and liberty–in this context, liberal democracy. Given this basis, it is argued that liberal democracy is inseparable with basic human rights such as free speech, as well as autonomy. In this regard, it has been a common understanding that regimes that hold liberal democracy have overall better capacity to fulfil and promote autonomy as well as physical and economic security, compared to those who submit to non-democratic principles.[23] Thus, moral correctness of securitisation depends on the legitimacy of the object it refers to, and this legitimacy is determined by the extent to which the item contributes to human welfare.

In relation to the previous notions, the third criterion indicates that a securitisation response should be measured to the given threat. The intention of a securitising actor determines the just cause of the securitising actor's action. Consequently, the aggressor's capability to harm should also be in line with their speech act–as stipulated by the fourth and fifth criterion. The capability to respond to a given threat should depend on the severity of the threat itself, as well as the sincerity of the securitising actor which should have a reasonable chance of success.[24] In other words, the prospect of achieving just cause in securitisation attempts should outweigh the negative consequences caused by those of alternatives to securitisation.

Analysis

a. **Identifying the Legal Perspective in Migration Curtailment and Moving Beyond the Traditional Perception of Security**

Departing from the previous passage, it is evident that the narrow conception of security may lead to insecurity to human lives. In this regard, the foundation of bordering policies of the EU restricts the fundamental right to move. For instance, the third pillar which is the Justice and Home Affairs, in the Treaty of the European Union (TEU) has become a foundation for migration to become a subject for intergovernmental regulation within the EU.[25] In connection with the immigration issue, this bordering policy leads to the ignorance to safeguard human security aspects–stemming from securitisation of migration issues that focuses heavily on the traditional notion of security.

This course of phenomena is manifested in several of the EU's law instruments: 1) Regulation 1612/28 which constitutes the right of free movement of nationals of member states and those from 'third world' countries. This regulation distinguishes the right of 'free movement' between EU member states and non-member states.[26] As a result, the implementation of this law instrument eventually

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[22] Ibid., 428-429.

[23] Ibid., 432.

[24] Ibid., 428.

[25] "The Maastricht and Amsterdam Treaties," the European Parliament, https://www.europarl.europa.eu/ftu/pdf/en/FTU_1.1.3.pdf, 2.

[26] Mehmet Ugur, "Freedom of Movement vs. Exclusion: A Reinterpretation of the 'Insider'-'Outsider' Divide in the European Union," International Migration Review 29, no. 4 (December 1995): 964–99, https://doi.org/10.1177/019791839502900406.

constructed and polished the pre-border of the EU (visa/paper border).[27] 2) 1990 Convention applying the Schengen Agreement and its supplementing documents. This convention has put migration as the jurisdiction of internal security, putting migration as a dimension that concerns the protection of national security as well as connecting immigration and asylum with the issues of terrorism, transnational crimes, and border control.[28] 3) EU Presidency conclusions at the Seville Council on 21/22 June 2002. Although it is not legally binding, this instrument can be seen as a speech act, in which the Council addressed visa regulations and the urgency to 'improve' the management of external borders. This highlights the creation of a European police force, the right to conduct joint operations at external borders, as well as the need to manage 'burden-sharing' for external borders.[29]

b. Examining the Impacts of the European Union's Securitisation Practice through EUNAVFOR MED

The EUNAVFOR MED is often regarded as one of the most prominent militarised border control exercises in the EU's territory. Operation Sophia and Operation Irini–which fall under the organisational scope of the EUNAVFOR MED–have gained attention due to the 2015 migrant crisis which highlighted the need for EU countries in the Mediterranean to identify and capture vessels suspected of human trafficking.[30] Operation Sophia was carried out in four consecutive stages. The first stage includes surveillance and information gathering in the open waters on illicit smuggling activities. Second, the stage is divided into two sub-phases. In phase 2A, European Union ships were granted the authority to conduct searches in international waters according to the requirements imposed by international law. Additionally, phase 2B aims to gain cooperation with the Libyan authorities–as an external partner–to expand the operational capacity into their territorial waters. In the third phase, the EU mandate would be expanded to enforce the use of "all necessary measures" by the authorities. Finally, the fourth phase consisted of removal of troops and the successful conclusion of the operation. However, the absence of a legal foundation hindered the complete execution of Operation Sophia, which led to its suspension and replacement by Operation Irini in February 2020.[31]

As a common military response by EU member states, Operation Sophia has shaped the conception of 'threat' and securitising moves whose jurisdiction is then handed over to Frontex–the European Border and Coast Guard Agency, in charge of the management of the EU's external borders. As a result of Operation Sophia per 2020, the EU has successfully apprehended 143 suspected smugglers and destroyed 545 vessels.[32] In this regard, the execution of this operation was initially characterised by a high degree of responsiveness, meaning that the EU was able to respond to execute decision-making processes accordingly in a prompt manner in relation to the intended goal–

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[27] Henk van Houtum and Rodrigo Bueno Lacy, "The Autoimmunity of the EU's Deadly B/Ordering Regime; Overcoming Its Paradoxical Paper, Iron and Camp Borders," *Geopolitics* 25, no. 3 (March 10, 2020): 706–33, https://doi.org/10.1080/14650045.2020.1728743, 712.

[28] Hannah M. Cross, "The EU Migration Regime and West African Clandestine Migrants," Journal of Contemporary European Research 5, no. 2 (August 19, 2009): 172, https://doi.org/10.30950/jcer.v5i2.175.

[29] "Presidency Conclusions Seville European Council 21 and 22 June 2002," European Commission, June 22, 2002, https://ec.europa.eu/commission/presscorner/detail/en/DOC_02_13.

[30] EUNAVFOR MED, "About Us," Operation Sophia, n.d., https://www.operationsophia.eu/about-us/.

[31] Ruxandra-Laura Boşilcă, Matthew Stenberg, and Marianne Riddervold, "Copying in EU Security and Defence Policies: The Case of EUNAVFOR MED Operation Sophia," European Security 30, no. 2 (December 8, 2020): 221, https://doi.org/10.1080/09662839.2020.1845657.

[32] Council of the European Union, "Saving Lives at Sea and Targeting Criminal Networks," www.consilium.europa.eu, November 13, 2023, https://www.consilium.europa.eu/en/policies/eu-migration-policy/saving-lives-sea/.

demonstrating a proactive approach by its strategic capacity that is encapsulated by the Common Security Defence Policy (CSDP).[33] However, as the operation went on for a longer period of time, it was evident that a lot of the decisions were legally premature. For instance, cooperation between EU member states and the Crisis Management and Planning Directorate–an organisation in charge of civilian-military affairs under the CSDP–had faced several legal ambiguities concerning the allocation of responsibility for rescued migrants and captured smugglers. It remained unclear which state would assume the duties of the receiver.[34] Furthermore, the premature nature of EUNAVFOR MED operations can be seen in the strategic analysis to operate in Libyan territorial waters. In this regard, the absence of a legal mandate to operate in foreign waters has reflected a very low degree of *appropriateness*, meaning that the chosen instrument, which is a coordinated military response, has been proven weak in reaching the desired objective as encapsulated in the four consecutive stages of Operation Sophia.[35] As a result, this phenomenon illustrates the reason behind the inability of EUNAVFOR MED to move beyond phase 2A in Operation Sophia.

Moreover, the inability to achieve any further development in security practices has led to the failure of Operation Sophia, which has also demonstrated itself as a weak tool in dismantling human smuggling networks in the Mediterranean. The findings indicated that the individuals who were caught in 2016 and labelled as traffickers would be more accurately described as irregular migrants rather than criminals.[36] Therefore, rather than functioning as a well-coordinated effort to address the issue of human trafficking during the migrant crisis, EUNAVFOR MED served primarily as a symbolic instrument for political leaders to demonstrate political solidarity and garner domestic support. Similarly, the failure of this operation has also raised concern due to the incongruity between the success rate of these securitisation practices in the border regions of Europe and the amount of support and resources that had been put into them. For instance, Frontex had been granted the authorisation by the European Council to triple their financial resources in 2015 and 2016.[37] In addition to this, new cooperation with the North Atlantic Treaty Organisation (NATO) with Frontex, along with the intensification of surveillance and maritime joint operations have also marked a significant rise in security practices in Europe.[38]

In relation to the field of security study, EUNAVFOR MED, specifically Operation Sophia has failed to fulfil the justifiability criteria of the JST. According to Rita Floyd, migration issues–or high rates of migration–are not necessarily an existential threat to the state, due to the absence of the element of intentionality. In this regard, migration is seen as the management of people and their diverse choices, rather than as a collective entity.[39] However, the author argues that the element of intentionality can be evident in the actions of the securitising actor in Europe. As a prominent securitising actor in Europe, Frontex has managed to become a billion-dollar industry. This agency relies on the practice of bordering that operates on the 'economy of fear' due to its bordering practice that divides 'legal' and 'illegal'

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[33] Anne Ingemann Johansen, "Assessing the European Union's Strategic Capacity: The Case of EUNAVFOR MED Operation Sophia," European Security 26, no. 4 (August 8, 2017): 511, https://doi.org/10.1080/09662839.2017.1361933.

[34] Ibid., 518.

[35] Ibid., 519.

[36] Ibid., 521.

[37] Sarah Léonard and Christian Kaunert, "The Securitisation of Migration in the European Union: Frontex and Its Evolving Security Practices," Journal of Ethnic and Migration Studies 48, no. 6 (December 18, 2020): 1424, https://doi.org/10.1080/1369183x.2020.1851469.

[38] Ibid., 1428.

[39] Rita Floyd, Can securitization theory be used in normative analysis? Towards a just securitization theory, 433.

migrants–which antagonises a certain group of migrants and heavily restricts freedom of movement. In other words, Frontex has maintained cooperation with various stakeholders in the security-industrial complex. This agency functions as an intermediary between law enforcement and the trade of security equipment. In light of this issue, Frontex coordinated with 108 companies between 2017 until 2019 to discuss the procurement of various equipment concerning surveillance, document inspection systems, as well as military weaponry.[40] In contrast to a humanitarian approach, this phenomenon has shown an interest for Frontex that has been mainly rooted in the pursuit of capital and wealth. This is reinforced by the security-industrial complex which continually produces speech acts surrounding 'border security'. Consequently, it can be observed that the 'just cause' justification–as mentioned in the JST– cannot be applied in the migration securitisation efforts in Europe due to the insincerity of its securitising actor, namely Frontex.

In addition to the previous argument, it is also evident that the presence of existential threats is ascribed to smugglers and human traffickers in the Mediterranean. This speech act was expressed at the Council of the European Union meeting on 18 May 2015, which stated that the EUNAVFOR MED was aimed to disrupt human smuggling activities through military means in the midst of a migration wave.[41] However, the blurred distinction between asylum seekers, migrants, and human traffickers has further complicated the issue. Due to its fluid model, the business of smuggling migrants has made it impossible for the authorities to identify a characteristic of a smuggler. Many of those migrants eventually resort to human smuggling activities in order to help their relatives and acquaintances arrive in their country of destination.[42]

As the second criterion of the JST suggests, the justification of securitisation should also depend on its contribution to human well-being. As demonstrated in the case of EUNAVFOR MED Operation Sophia, the security-military approach in overcoming humanitarian issues has heavily emphasised itself on the "seizure and disposal of illegal vessels" crossing into Europe. In this regard, this militarised operation has put the migrants themselves out of the consideration, due to its aforementioned emphasis on destroying and disrupting the traffic of illegal vessels. This approach has completely neglected the well-being and the improvement of human lives crossing the Mediterranean Sea. Against this backdrop, the execution of Operation Sophia also suggests that displacement is the result of its securitisation practice. It has been argued that this outcome is intended to eliminate the risk of death occurring on the borders of Europe and redirect it to its neighbour, Libya, where prevailing circumstances involve abduction and mistreatment of migrants and refugees.[43] This logic shows that the objective of the EUNAVFOR MED itself is not oriented towards humanitarian purposes–which should be the justification basis according to the JST–nor has it succeeded in doing so.

Furthermore, as the third and fourth criterion imply, the securitising move should be carried out in proportion to the level of threat which must also have an attainable likelihood of success. In the case of EUNAVFOR MED, it is evident that this militarised operation has faced legal obstacles due to its

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[40] Dominik Winkler, "The Political Economy of Bordering and the Reproduction of Borders in the Case of Frontex," Human Geography 16, no. 2 (November 6, 2022): 171, https://doi.org/10.1177/19427786221135577.

[41] Council of the European Union, "Foreign Affairs Council, 18 May 2015," www.consilium.europa.eu, June 14, 2018, https://www.consilium.europa.eu/en/meetings/fac/2015/05/18/.

[42] Elizabeth Collett , "Big Business of Smuggling Enables Mass Movement of People for Enormous Profits," Migration Policy Institute, December 15, 2015, https://www.migrationpolicy.org/article/big-business-smuggling-enables-mass-movement-people-enormous-profits.

[43] Glenda Garelli and Martina Tazzioli, "The Humanitarian War against Migrant Smugglers at Sea," Antipode 50, no. 3 (November 21, 2017): 690, https://doi.org/10.1111/anti.12375.

weak instruments to allocate the responsibility of migration management in the Mediterranean and the lack of cooperation with external actors, such as Libya. The situation illustrates that the initial chance of success for this operation was low in the first place due to its failure to go beyond the second phase. In addition to this, the sharp increase of Frontex budget over the years accompanied with the surge of securitisation practices, as well as the failure of militarised securitisation practices in the Mediterranean in disrupting the activities of human smuggling activities suggest that the proportionality of securitisation attempts does not match according to the level of threat. The exaggerated attempt to curtail human trafficking has failed to disrupt any of the smuggling activities. As a result, this leads to the stricter bordering regime in Europe that hinders the mobility of migrants and the neglection of basic rights of asylum seekers. This failure may be also attributed to the mismatch of securitising actions and the referent objects. If it is assumed that the asylum seekers are the intended targets of the securitization agenda, thus the main goal of the securitization practice should not just be centred on the elimination of illegal vessels, but also the evacuation of asylum seekers. To some extent, this failure also roots in the rushed decision of policymakers in the EU which copied the previous smaller-scaled operations, such as the Operation Mare Nostrum and Operation Atlanta.[44] In a broader security lens, this situation shows that the security orientation of EUNAVFOR MED remains susceptible to miscalculation, lacking in a comprehensive situational awareness in regard to the complexities of the migration crisis, and traditional–with no concrete frameworks on humanitarian-oriented approaches.

c.   Key Recommendations

The author argues that the total opening of the external borders of Europe is necessary for migrants, as it will not only address the humanitarian requirements of individuals seeking refuge, but also improve and strengthen the perception of the European Union as an organisation that upholds the tenets of human rights. Especially considering that the EU is supposed to uphold its humanitarian values as mentioned in the Article 2 of the Treaty of the European Union: "The EU is founded on the values of respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights, including the rights of persons belonging to minorities."[45] Additionally, the European Convention on Human Rights has also set forth its 'universal' humanitarian values, as mentioned in the article 14.[46] Drawing upon this argument, there are two sets of key recommendations that the EU should consider in the future regarding its external bordering policies in the future.

First, *desecuritisation* as opposed to securitisation. Against the backdrop of previous passage, securitisation implies that a threat is fundamentally constructed, meaning that it derives from 'nothing' and is put into existence by speech act. Consequently, (in)security is politically constructed and this frames that immigration into the national security realm–which does not touch human security. 'Desecuritisation' refers to a term coined by Barry Buzan et al. in their book *Security*: *A new Framework for Analysis* which states that an issue may be separated from the realm of security into the normal

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[44] Boşilcă, "Copying in EU security and defence policies: The case of EUNAVFOR MED Operation Sophia," 230-231.

[45] European Union, "Consolidated Version of the Treaty on European Union," https://eur-lex.europa.eu/resource.html?uri=cellar:2bf140bf-a3f8-4ab2-b506-fd71826e6da6.0023.02/DOC_1&format=PDF, 5.

[46] "Guide on Article 14 of the European Convention on Human Rights and on Article 1 of Protocol No. 12 to the Convention," European Court of Human Rights, n.d., https://www.echr.coe.int/documents/d/echr/Guide_Art_14_Art_1_Protocol_12_ENG, 6.

bargaining process of the political sphere.[47] In other words, desecuritisation aims to deconstruct the making of security issues and aims to frame immigration from a different point of view. Therefore, desecuritisation seeks to place 'migration' as a topic that roots itself *outside* the discussions of existential insecurity. Desecuritising move should be the basis and an end goal for decision-making in the migration domain–which should be implied in the second point of the recommendations. In this regard, the emergence of immigration issues into the public has started the politicisation of immigration issues. Consequently, this constructs the definition and constituents of a 'threat' and the identification of the entities for whom 'security' is relevant. This premise eventually sharpens the '*us vs them*' narratives, especially in the context of post-9/11 which is characterised by the other-ing of non-Western people. As also showcased earlier, the situation of Poland highlights the incongruity of allowing Ukrainians to join Europe freely but denying the same privilege to people from the Middle East and Northern Africa, despite both groups facing existential threats. In regard to securitisation, this is the consequence of securitisation in migrant issues, in which the first group is often referred to within a condescending speech act, whereas the latter is framed as 'victims of unlawful aggression'.

Second, it is essential to implement complete reforms of migrant-related treaties and regulations that undermine the security of migrants, especially asylum seekers. This may be accomplished by the following actions: 1) Abolish the distinction between internal and external borders as mentioned in the Regulation 1612/68, which means that free movement for all people regardless of nationalities should be the cornerstone of migration policies. 2) Remove the topic of migration as a central issue in the national security agenda. This is particularly noticeable in the 1990 Convention applying the schengen agreement, which fits the traditional notions of security that jeopardise the importance of human security. Within this framework, the issue of migration is then brought into the national security realm, in which migrants are seen as 'outsiders' that may bring security risks, instead of being the referent objects. As a result, this is manifested in the post-9/11 bordering policy, in which migrants are framed by various speech acts that put them outside the securitisation framework. This is done by branding dehumanising metaphors–often conducted by the media–such as: 'influx,' and 'invasion' when referring to migrants.[48] 3) Implement the principles of responsibility-sharing in dealing with asylum seekers. This prevents reluctant EU member states in 'weaponising' immigration issues as a political tool. Furthermore, this should also strengthen the principle of non-refoulement, in which each member state bears the responsibility to provide welfare for migrants. 4) Conduct a thorough examination on the threat analysis in the Mediterranean Sea. This strategy should evaluate if the current securitising moves are being carried out proportionally in response to an actual degree of danger or not. 5) Significantly reduce the budget of Frontex in handling the securitisation practice. Past findings showed that the increase of this agency's financial support had contributed very little to the success rate of militarised operations in the Mediterranean Sea. Therefore, it is necessary to implement a budget reduction action until the threat evaluation is carried out, at which point it may be adjusted based on the assessed threat level. Ultimately, these approaches in viewing and treating migrants should be in line with human security perspective, which is based on the principle to securitise human needs: the *freedom to* and *freedom from*.

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[47] Barry Buzan, Ole Waever, and Jaap De Wilde, Security: A New Framework for Analysis (Boulder, Colorado: Lynne Rienner, 1998), 4.

[48] Van Houtum, "The Autoimmunity of the EU's Deadly B/ordering Regime," 724.

Conclusion

This paper aims to explain why the EU still maintains its massive human rights abuses at its external borders, which are also reflected in the rejection of asylum seekers–as demonstrated in the case of Poland–despite having the Article 2 of the Treaty on European Union that explicitly declares the EU's commitment to upholding human dignity and respecting the human rights of all individuals, including the rights of the minorities. In answering this question, the author argues that this backlash against migrants and disregard for basic rights of asylum seekers mainly stem from the construction of *speech acts* that put immigration issues as a national security matter, which eventually became a pretext for stricter border control. As a result, this situation has led to the 'othering' of asylum seekers, which consequently put them as a 'threat' instead of a vulnerable group in need of assistance (*referent objects*).

By employing Securitisation Theory, the author contends that the EU's limited conception of security can be traced back to its foundation of border policies which restricts the fundamental right to move. The restriction of freedom of movement and the framing of migration as a security issue are evident in several law instruments, such as the Regulation 1612/68, the 1990 Schengen Agreement, as well as the EU Presidency conclusions at the Seville Council on 21/22 June 2002. Furthermore, the execution of EUNAVFOR MED as a militarised operation in the Mediterranean Sea to curtail human smuggling activities in the midst of the 'immigration crisis' is crucial to highlight due to its contribution to the stricter border regime in Europe. In this regard, Just Securitisation Theory (JST) has provided an analytical tool and a framework to examine the moral justification of this operation. Given this basis, EUNAVFOR MED fails to satisfy the four criteria of JST which suggests that the operation itself lacks further legal frameworks and was hastily conducted without any threat calculation, which resulted in unproportionate securitisation moves. Due to the normative nature of this framework, the author formulates several key recommendations that include the exclusion of immigration issues from the political sphere (*desecuritisation*), the amendment of EU border policies–as mentioned above–as well as the reduction of Frontex budget as a result of its infectivity.

Acknowledgement

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