

Between Interests and Norms: Explaining Burden-Sharing in the European Union

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International burden-sharing, that is, the question how costs of common initiatives or the provision of public goods should be shared between states, raises two important questions. First, the question of *motivation*. How do we explain calls for burden-sharing beyond the state? Second, the question of *patterns*. How can one account for the unequal distribution of burdens across countries that one observes? In order to address these questions, the first part of the paper proposes and analyses two burden-sharing approaches—one based on a ‘cost–benefit logic’, the other on a ‘norm-based’ logic—that offer partly competing and partly complementary hypotheses for answering these two questions. The second part analyses EU attempts to share burdens in the area of forced migration in order to test these hypotheses empirically. The results suggest that although there is still little evidence for inter-state solidarity in the EU, norm-based approaches can nonetheless offer a powerful account of European burden-sharing in the area of forced migration.

Introduction¹

International burden-sharing, that is, the question how the costs of common initiatives or the provision of international public goods should be shared between states, has long been a concern for academics interested in the workings of international organizations such as NATO or the UN (Olsen and Zeckhauser 1966; Boyer 1989; Oneal 1990).² In the context of European integration, such concerns have often been limited to debates about the net-budgetary positions of the European Union (EU) Member States (Wallace 1980; Shackleton 1990; Tsoukalis 1993; Begg and Grimwade 1998). Although these questions have remained highly relevant, more recently there has been an increasing interest in questions that move beyond a concern with purely budgetary issues and take account of less quantifiable costs (e.g. social ‘costs’ of accepting refugees) and benefits (e.g. market access) of integration (Noll 1997; Harvey 1998; Chalmers 2000).

Despite frequent references to burden-sharing by the Commission and the Member States, as with the recent moves to create a European Refugee Fund

(ERF), the term has not yet been properly conceptualized in the EU context. In particular two crucial questions have not yet been sufficiently addressed: First, there is the question of *motivation*. How do we explain calls for burden-sharing beyond the state? In what ways, and to what extent, are the motivations for EU burden-sharing different to similar initiatives at the international level or those in a nation state context? Are burden-sharing arrangements the result of instrumental co-operation to overcome collective action problems? Or can we observe norm-guided actions based on emerging notions of cross-border solidarity? The second set of key issues concerns the question of *patterns*. How do we explain patterns of burden-sharing in the EU? What are the reasons for the often unequal distribution of burdens in the international system? Or to put it differently again: Why is it that some EU Member States are prepared to accept higher relative burdens than others? And to what extent have EU initiatives aimed to achieve a more 'equal balance of efforts' led to a more equitable distribution of burdens?

In order to address these questions, the first part of the paper proposes and analyses two burden-sharing approaches—one based on a 'cost-benefit logic', the other on a 'norm-based' logic—that offer partly competing and partly complementary hypotheses for answering the above questions. The second part analyses EU attempts to share burdens in the area of forced migration in order to test these hypotheses empirically. The results suggest that although there is still little evidence for inter-state solidarity in the EU, norm-based approaches can nonetheless offer some powerful explanations of European burden-sharing in this area.

Two Approaches to Burden-Sharing

Political sociology identifies two principal logics of social action, a 'logic of expected consequences' (informed by a cost-benefit rationale) and a 'logic of appropriateness' (informed by a norm-based rationale) (March and Olsen 1998: 7–10). The former sees action as being driven by a logic of rational and strategic behaviour that anticipates consequences and is based on given preferences. Actors choose among alternatives by evaluating expected consequences of their actions for the achievement of certain objectives, expecting other actors to do the same. In this rational choice informed model, actors assess their goals, interests and desires independently of institutions.³ In other words, it is assumed that actors' preference formation is external to the institutional context in which actors find themselves. Institutions affect only the strategic opportunities for achieving certain objectives (Immergut 1997: 231).

The latter 'logic of appropriateness' views action as being guided by notions of identity and roles shaped by the institutional context in which actors operate. According to this logic, action is based on rules, practices and norms that are socially constructed, publicly known and anticipated. Norm-based approaches emphasize that the motivations, choices and strategic calculations of political actors are framed by institutional context, which shapes

opportunities for action. Behaviour often can be associated with what is considered 'appropriate' in a particular socio-cultural context. Such a perspective raises the question, to what extent an actor's broader institutional environment can lead to norm-guided behaviour that may supplant strategic calculation. These approaches regard institutions as a political environment or cultural context which shape an individual's interests; that is, actors are conditioned (as to their identity, priorities and interpretations of reality) by institutions over time. Decisions are often taken according to what is considered 'appropriate' behaviour, with institutional norms being the main shapers of such notions of 'appropriateness' (Knill and Lenschow 1998). This norm-guided account therefore suggests that a calculus of identity and appropriateness is sometimes more important to actors than a calculus of political costs and benefits (March and Olsen 1989; Thielemann 2001). To reiterate the general point: the key difference between the two accounts is not the dichotomy between material and non-material motivations. Even if goals are non-materialist, as in the area of international relations when actors adhere to certain norms for reasons of international standing, the underlying logic of action is often still consequentialist—or 'means-ends'—in nature (Checkel 1999).

From the above, two possible explanations for co-operation and burden-sharing emerge. On the one hand, one can point out the irrationality of egoism and what the actors would gain by co-operation: it may be rational to sacrifice opportunities for individual action and co-operate to achieve collective goods instead (cost-benefit approach). On the other hand, a reflection on the conflict between individual and collective action may denounce egoism as undesirable and seek to attain joint goals by appeals to normative notions such as that of solidarity (norm-based approach). These two burden-sharing approaches and the insights they provide as to the questions of 'motivation' and 'patterns' of international burden-sharing will be outlined in more detail below.

The 'Cost-Benefit' Approach

Much of the existing literature on international burden-sharing is based on assumptions that are informed by a cost-benefit logic of social action (for an overview see Chalmers 2000: 1–20).

Explaining motives for burden-sharing: Two potential burden-sharing motives are highlighted in the 'cost-benefit' literature. First, according to the theory of public goods (Olsen 1965; Hartley and Sandler 1999; Bolks and Stoll 2000), which remains the most influential approach to the analysis of burden-sharing, *co-operation produces positive-sum benefits* which in turn creates the will to share burdens/costs among actors as the benefits of the contribution exceed its costs. At the international level, co-operation is thought to produce a level in the provision of valued public goods which an individual state cannot attain on its own. Public goods theory suggests that we should expect a significant

under-provision of international public goods in the absence of central taxation and enforcement authorities.⁴ Burden-sharing can thus be seen as a rational response to the problem of underprovision.

A second potential motive for burden-sharing based on cost–benefit considerations, is the insurance rationale (see also the contribution of Noll in this issue). A suitable burden-sharing regime can provide a degree of mutual insurance against the occurrence of a particular external shock that might put pressures on one or a few countries. Burden-sharing schemes allow states to set off today's contributions against the expected reduced costs in a future crisis. From a cost–benefit perspective, however, such a scheme can only be expected to include those who have a similar perception of risks that are worth sharing and such a scheme will only be agreed upon when contributions reflect the differences in the relative risk perception of each participant.

Explaining patterns of burden-sharing: From a public goods perspective, Mancur Olsen suggests that in any burden-sharing system, the distribution of costs and benefits will be skewed against the larger participants. According to Olsen's argument it is, other things being equal, the larger states whose actions will make more of a difference to the total common effort than the actions of small states. As a result, larger states will tend to contribute a disproportionate share to the overall effort as smaller states, whose individual contribution will not be as crucial anyway, have a strong incentive to free-ride on the efforts of the larger states. We will therefore observe a systematic tendency for what Olsen calls the 'exploitation of the big by the small' (1965: 29). A number of studies in the area of collective defence analysing the correlation of defence spending and Gross National Product have offered support for this hypothesis in the NATO context. These studies have shown that for decades the United States, as NATO's largest Member State, has contributed a disproportionately large share of the cost to NATO's collective defence effort (Olsen and Zeckhauser 1966; Oneal 1990; for problems and inconsistencies with this general argument see Boyer 1989: 715).

More recently, economists have developed a refined version of Olsen's public goods approach, one that is based on the so-called 'joint product' model (Sandler and Forbes 1980; Sandler 1992; see also Betts, this issue). A public good is defined by its properties of non-excludability and non-rivalry. It is these properties which set it apart from a private good. The provision of a public good, such as deterrence from a hostile attack provided by collective defence, benefits all members of a community and these benefits are extended to other actors at no marginal cost. However, as Sandler and Forbes (1980) point out, defence provides a spectrum of outputs ranging from purely public to private or country-specific defence outputs. This means that 'defence provides more than the single output of deterrence implied by the pure public goods model: it also provides protection and damage limitation when deterrence fails, as well as national or private benefits' (Hartley and Sandler 1999). In other words what is often regarded as a public good has in fact

excludable (private) benefits to a country (e.g. being beneficial for maintaining domestic order) and is 'rival' in character (e.g. conventional forces being subject to effects of 'force thinning'). From this revised model we would expect that a country's contributions to the provision of a certain collective good (which has both public and private characteristics) will be positively related to the proportion of excludable benefits accruing to that country. Both the 'public goods' and the 'joint product' model offer a very different account of international burden-sharing dynamics than more norm-based approaches that will be discussed next.

The 'Norm-Based' Approach

Explaining motives of burden-sharing: The 'prisoner's dilemma' points to a constellation where actors who act solely with the aim of maximizing their own utility will produce a result which is contrary to their interest (Luce and Raiffa 1957; Rapaport and Chammah 1965). Acting in solidarity under conditions of this kind is dependent on actors not acting according to the principle of utility maximization but according to the principle of universalization, i.e. acting as they would wish all others to act as well. The principle of universalization thus forbids free-riding or placing the costs for providing mutually desired goods disproportionately on the shoulders of others. Action on this basis is driven by the norm of fairness (Baurmann 1999: 253).

The existence of solidarity can therefore be seen as providing a way out of situations which have the structure of a 'prisoner's dilemma'. In the original prisoner's dilemma (Rapaport and Chammah 1965), two prisoners who are accused of a crime are interviewed separately and offered a deal. If only one confesses, that prisoner alone will be released, whereas the other will receive a harsh sentence. If both confess, each will receive an intermediate sentence. If both refuse to confess, they will get a milder sentence for some different crime which can be proven independently of either confessing. If each prisoner is concerned solely with their own interest, it is rational for them to confess. But if each is unwilling to receive a benefit when this will harm the other, then each will refuse to confess, and both will be better off.

Approaches that emphasize norm-guided behaviour and highlight notions of solidarity offer an explanation to the 'why share costs' question that provides a complementary or even alternative account to more prominent cost-benefit models.⁵ Solidarity as a motivation for burden-sharing can be seen in two ways (Mason 2000). First, as a commitment to other members of a group to abide by the outcome of their collective decision-making. Even in many-actor cases, where it is often the case that one's own actions will make no appreciable difference to the overall outcome, the concept of solidarity still matters when the community can be understood to have made some collective decision and solidarity is understood as a commitment to abide by such a decision. Second, solidarity can be understood as a concern for other members of a group, which may be expressed by an unwillingness to receive a benefit unless the others do,

or an unwillingness to receive a benefit when this will harm them. This commitment to the well-being of others is sometimes conceived in terms of the recognition of special obligations between the members of a group, which exist in virtue of their being members of it. Solidarity therefore can be said to exist among a group of actors when they are committed to abide by the outcome of some process of collective decision-making, or to promote the wellbeing of other members of the group, sometimes at significant cost to themselves.

Explaining patterns of burden-sharing: From such a norm-based perspective, patterns of burden-sharing can be explained in two ways. First, burden-sharing bargains can be guided by notions of equity, basing the distribution of burdens on some key that is linked to the actual capacity of the different participants of the burden-sharing regime. A second way of explaining patterns from a norm-based perspective is to look at variations of the participating states' commitment to norms that are related to the burden to be shared. From this perspective the burden that a state is prepared to accept in establishing or maintaining a burden-sharing regime that can be seen to safeguard certain norms (such as general human rights or norms of distributive justice) is positively related to a state's commitment to such norms.

The two above approaches thus offer alternative explanations concerning the two questions about motivations and patterns of international burden-sharing that this paper seeks to address. While the question of motivation ultimately offers only limited opportunity for empirical testing, the following competing hypotheses regarding the patterns of international burden-sharing can be formulated:

- H1: The greater the difference that a state can make to the provision of a valued public good, the (disproportionately) greater will be its contribution to the burden-sharing regime as other states will have an incentive to free-ride (the exploitation of the big by the small/public goods hypothesis)
- H2: The greater the excludable benefits that a state receives from a burden-sharing scheme, the greater its willingness to contribute to the scheme (the private benefits/joint product hypothesis)
- H3: Members of an 'international community' can be expected to contribute to the provision of a collective good in accordance with their relative capacity to do so (the equity/solidarity hypothesis)
- H4: The greater the commitment of a state to a particular norm (right) that is safeguarded by a particular burden-sharing scheme, the greater its willingness to accept costs resulting from the establishment of such a scheme (the 'norm commitment'/protection of 'rights' hypothesis).

In the following section, we will use evidence from recent European burden-sharing initiatives in the area of forced migration, in order to put these four hypotheses to an initial empirical test.

Burden-Sharing in the EU: the Case of Forced Migration

Some of the most influential accounts of European integration (Moravcsik 1998) emphasize the opportunity for gain from cooperation as the principal driving force behind the integration project and have generally been sceptical about the potential for norm-based burden-sharing arrangements in the Single Market. In the absence of win–win situations, the use of side-payments to compensate the actual or potential losers of further integration is often regarded as a necessary condition for reaching an agreement. From this perspective, action is seen above all as being driven by cost–benefit calculations, and references to solidarity in the EU Treaties have generally been regarded as window dressing and cheap talk.

Recent developments in the area of EU Justice and Home Affairs (JHA) at Maastricht and Amsterdam have constituted important steps toward further integration. The extent to which development in this area can also be seen as a watershed in burden-sharing terms—one that potentially breaks with the strong underlying cost–benefit approach to distributive and redistributive issues at the European level—will be analysed below after the following sketch of recent initiatives in this area.

Steps Undertaken to Achieve a ‘Balance of Efforts’ in the Area of Refugee Protection

Noll, in this issue, makes the useful distinction between the sharing of legal norms, money and people as three interrelated aspects of burden-sharing in the area of forced migration. I will concentrate here on the latter two which have an explicit redistributive dimension. For a detailed account on legal harmonization attempts in this area see Noll (2000).

Since the late 1980s, the EU burden-sharing debate has moved beyond the issue of net-budget contributions in the Common/Single Market. The principal area of such new burden-sharing dynamics has been the field of JHA. Member State governments reacted to the termination of immigration controls at internal Community borders with a call for enhanced co-operation aimed at strengthened security at the Community’s external border. The question of how the challenge of third country migration into the EU should be met and how its costs should be shared among the Member States has moved to the top of the political agenda. In particular the massive influx of displaced persons during the first Balkan crisis in the early 1990s brought burden-sharing questions to the fore in this area. Against the background of this crisis, a number of proposals and initiatives that envisaged the development of a comprehensive EU burden-sharing system in this policy area were made. These proposals encompassed suggestions for financial and physical burden-sharing, both with regard to asylum seekers and temporary protection seekers. The first explicit references to such burden-sharing ambitions were made by EU ministers responsible for asylum and immigration at their meeting of 30

November and 1 December 1992 (not published in the Official Journal of the European Union (OJ) but reprinted in UNHCR 1995). These deliberations led to a German Presidency Draft Council Resolution on Burden-sharing in July 1994 (Council Document 7773/94 ASIM 124). This proposal foresaw the reception of refugees according to a key which was based on three criteria which were given equal weight (population size, size of Member State territory and GDP). The form of the suggested redistributive mechanism followed the example of German domestic legislation, which stipulates a similar key for the distribution of asylum seekers among the German *Länder* (see section 45 of the German Asylum Procedure Act (*Asylverfahrensgesetz*)). The centrepiece of the German draft foresaw the introduction of a compulsory resettlement mechanism that relied on the above distributive key and reads as follows:

Where the numbers admitted by a Member State exceed its indicative figure [...], other Member States which have not yet reached their indicative figure [...] will accept persons from the first State.

Perhaps unsurprisingly, however, this proposal did not find the necessary support in the Council.⁶ In particular, the UK, which had received relatively few asylum seekers until that point, was strongly opposed to such a scheme (BMI 1994; *Frankfurter Allgemeine Zeitung* 27 January 1995: 2; BT-Drs. 13/1070, 55; Integrationsbericht, p.92). Other Council members were opposed to this proposed 'physical' burden-sharing regime as they saw the transfer of displaced persons without their consent as a potential violation of those persons' human rights. Consensus emerged only much later during the French Presidency for the much watered down Council resolution of 25 September 1995 'on burden-sharing with regard to the admission and residence of displaced persons on a temporary basis' (OJ No C 262/1, 7 October 1995). In it, no more mention is made of a compulsory redistributive mechanism or indicative figures. Instead, it offers a number of 'soft' (i.e. non-binding) principles to guide states in the event of a mass influx of protection seekers, including 'the spirit of solidarity', 'equity of distribution' and 'harmonization of response'. It takes account of British and French wishes in recognizing that participation in peace-keeping operations can be counted against the admission of displaced persons when assessing the equity of burdens carried by individual Member States. This non-binding resolution was complemented by a Council decision of 4 March 'on alert and emergency procedure on burden-sharing with regard to the admission and residence of displaced persons on a temporary basis'.⁷ Together, they poured cold water on the idea of facilitating a quick and automatic burden-sharing response in the case of a mass influx of displaced persons. One has to agree with Suhrke, who states that 'evidently, a voluntary and *ad hoc* commitment to share in the spirit of solidarity represented the limits of the possible' (1998: 411). The ineffectiveness of these instruments became evident during the Kosovo crisis when neither of the two instruments were called upon by the Member States.

While these specific burden-sharing initiatives in the mid 1990s thus had very limited effects, other EU activities in this area were more path-breaking and had some quite paradoxical consequences on the distribution of burdens across Member States. Two areas are particularly worth mentioning. First, the Dublin Convention, often regarded as the flagship of the EU's asylum *acquis*, not only affects individual asylum-seekers but also the protection responsibilities of each Member State. The Dublin Convention provides the rule that the 'Member State of first entry' is the one responsible for dealing with a particular asylum claim. Asylum seekers who move to another Member State as a secondary movement can be sent back to the 'state of first entry' (for an overview of the Dublin Convention see e.g. Hurwitz 1999). Second, EU institutions and Member States have developed elaborate mechanisms for deflecting migration movements from the Union's territory. These mechanisms comprise pre-entry measures, such as carrier sanctions and technical assistance to third countries' exit control, as well as post-entry measures, such as rules for sending back asylum seekers to safe third countries.

The ambitions for a more comprehensive EU burden-sharing system in this area were reiterated in the text of the Amsterdam Treaty of October 1997, Article 63 (ex 73k) of which states that the Council shall adopt measures 'promoting a balance of effort between Member States in receiving and bearing the consequences of receiving refugees and displaced persons'. In response, the European Council in Tampere on JHA on 15 and 16 October 1999, which benefited from the activism of the newly established Commission Directorate for Justice and Home Affairs, called for the establishment of a financial reserve for the implementation of emergency measures to provide temporary protection in the event of a mass influx of protection seekers (Council Document SN 200/99). Against this background, the Commission launched a number of experimental instruments during the 1997 to 1999 period.⁸ The aim of these 'Joint Actions' was not only to test new methods of burden-sharing but also Member States' willingness for further steps towards more comprehensive solutions. These initiatives therefore formed the basis for the Council Decision of 28 September 2000 establishing the European Refugee Fund (ERF) (OJ L 252/12 of 6 October 2000).

Created on the basis of Article 63(2)(b) of the Treaty establishing the European Community, the ERF is to allocate resources proportionately to the burden on each Member State by reason of their efforts in receiving refugees and displaced persons. Its rationale is 'to demonstrate solidarity between Member States by achieving a balance in the efforts made by those Member States in receiving refugees and displaced persons and bearing the consequences of so doing' (para 21).⁹ The ERF will initially operate from 1 January 2000 to 31 December 2004 and disburse a total of €216 million according to two elements, a fixed and a proportional one.¹⁰ First, the Fund will disburse an equal flat rate amount to each participating Member State¹¹ irrespective of the number of displaced persons in its territory. This element, which runs counter to the redistributive objectives of the Fund, will be scaled

down over the five years of the Fund's initial operational period. The remaining resources are to be distributed in proportion to the number of displaced persons in each Member State.

Explaining the Motives behind EU Burden-Sharing

With regard to the question of why states initiated steps towards a burden-sharing regime in the area of forced migration, cost–benefit approaches appear to offer the most convincing account of developments (see e.g. Heckmann and Tomei 1997). From this perspective, burden-sharing offers some countries the prospect of reducing their own costs. It is therefore not at all surprising that the first substantial burden-sharing proposals in this area in the early 1990s were initiated by Germany, the EU country most affected by the war in former Yugoslavia.

Having said this, it is important to note that the official text establishing the EU's burden-sharing instruments in this area put heavy emphasis on notions of solidarity and fairness. The text of the ERF decision is only one of many examples. It states that the

implementation of such a policy [common policy on asylum] should be based on *solidarity* between member States and requires the existence of mechanisms intended to promote a *balance in the efforts* made by the Member States in receiving and bearing the consequences of receiving refugees and displaced persons (para 2, emphasis added).

It goes on to say that

it is *fair* to allocate resources [from the ERF] proportionately to the burden on each Member State by reason of its efforts in receiving refugees and displaced persons (OJ L 252/12 of 6 October 2000 (para 11)).

Another example is the EU's recent temporary protection directive which devotes an entire chapter to the issue of Community solidarity, outlining in detail how 'soft' solidarity mechanisms are to achieve an equitable distribution in the case of a 'mass influx'.¹² While it is easy to dismiss these pledges as non-binding and therefore inconsequential, there can be little doubt that since the start of the integration process, some of the EC's most prominent political leaders, from Schuman to Kohl—while clearly being committed to pursuing what they saw as their country's national interest—have viewed the integration process not merely in cost–benefit terms, seeing the Community not just as an economic venture but also as an emerging political community.

A second argument in support of the claim that references to solidarity might not be merely non-committal flowery statements can be seen in the fact that most, if not all, Member States have a long tradition of upholding constitutionally codified principles on the desirability of solidarity between regions within their state. The constitutions of all EU Member States contain provisions which foresee burden-sharing on the basis of some notion of

solidarity between the different territorial entities and regions in cases of economic, financial or infrastructural imbalances. (The fact that there indeed appear to be strict limits to cross-border solidarity in the Union should not surprise, if one keeps in mind how contested this notion has been in a national context.) Some lawyers have suggested that one should therefore regard solidarity as one of the Union's general principles of law as it constitutes an accepted norm in the domestic constitutions of the Member States (Schieffer 1998: 208–212). At least in part, such an interpretation appears to have been accepted by the European Court of Justice.¹³

Nonetheless, on balance it appears that while reference to solidarity and fairness appears to have played a part in selling these initiatives as part of the process towards an 'ever closer union', the timing of the proposals, the hard bargaining that characterized the establishment of the ERF and the inability to agree on a distribution key in the case of temporary protection measures (in the case of mass influx) lend strong support to explanations derived from cost-benefit approaches. One question, however, remains and that is how the agreement of the likely net losers from the ERF was obtained. The compromise regarding fixed lump-sum payments, irrespective of the number of refugees and displaced persons received, appears to be insufficient for an explanation based on a side-payment logic (especially as this concession will be phased out over time). The insurance rationale discussed above might point towards a more convincing explanation for why the immediate net losers supported the establishment of the ERF. The relatively small size of the Fund, as well as its initially limited timeframe, can also be assumed to have facilitated the reaching of the ERF agreement.

Explaining Patterns of EU Burden-Sharing

When looking at the number of asylum seekers received by EU countries over the last ten years, one cannot fail to notice the very large differences in reception figures (see Table 1, column 2). What does this tell us about differences in Member States' willingness to accept burdens within the EU's emerging forced migration regime?

The recent Kosovo crisis provides an excellent opportunity to study the willingness of European states to share displaced persons. With neighbouring countries, in particular Macedonia, heavily overburdened by protection seekers, UNHCR appealed to Western European states to accept refugees under its Humanitarian Evacuation Programme (HEP), under which UNHCR would transport refugees to states which agreed to accept a particular number of Kosovo refugees (van Selm 2000). This meant that in this particular case, refugee reception rates were relatively unaffected by refugees' own preferences on country of destination. The Kosovo case therefore offers a kind of 'controlled experiment' that allows for a relatively undistorted analysis of states' willingness to accept protection seekers and hence the testing of the four hypotheses developed above. However, it can be seen in Table 1 that the HEP

Table 1

Evidence Relating to (Cost–Benefit) Hypothesis 1 (the ‘Exploitation of the Big by the Small’/ Public Goods Hypothesis)

	Number of Kosovars accepted under the HEP, per 1,000,000 inhabitants		Total Asylum Applications, per 1000 inhabitants (averages 1990– 99)		Gross National Product (\$ billion) (1999)	R A N K
1	Austria 627.94	Sweden	27.71	Germany	2095	1
2	Denmark 530.08	Germany	22.90	United Kingdom	1451	2
3	Sweden 420.99	Denmark	21.14	France	1432	3
4	Ireland 274.67	Netherlands	20.34	Italy	1171	4
5	Netherlands 256.80	Belgium	17.62	Spain	592	5
6	Luxembourg 232.56	Austria	16.03	Netherlands	396	6
7	Finland 191.49	Luxembourg	13.26	Belgium	250	7
8	Germany 178.95	United Kingdom	6.29	Sweden	234	8
9	Portugal 127.13	France	5.02	Austria	205	9
10	Belgium 119.14	Ireland	4.89	Denmark	172	10
11	France 106.60	Finland	3.53	Finland	127	11
12	Italy 102.14	Greece	2.34	Greece	125	12
13	UK 72.44	Spain	2.12	Portugal	108	13
14	Spain 36.28	Italy	1.57	Ireland	79	14
15	Greece 0.00	Portugal	0.56	Luxembourg	18	15
Pearson Correlation Coefficient	1		0.39		–0.34	

Source: UNHCR and OECD.

figures show some positive correlation to the overall rate of spontaneous asylum applications across the EU.

Based on a cost–benefit perspective, a number of scholars, most prominently Suhrke (1998), have employed public goods theory to analyse international cooperation and burden-sharing in the area of forced migration. Suhrke argues that refugee reception is an international public good from which all states benefit, irrespective of which country receives the protection seekers. Increased security can be regarded as the principal benefit, as an accommodation of displaced persons can be expected to reduce the risk of refugees fuelling and spreading the conflict they are fleeing from. On this basis the figures in Table 1 set out to test for hypothesis 1. As the interest of this paper is to explore relative burdens among the Member States, the number of Kosovars accepted under the HEP programme are presented relative to Member States’ population size (column 1). Table 1 shows that Member States’ relative willingness to accept burdens in this particular case cannot be explained with

reference to the greater free-riding opportunities of smaller states. The size of a Member State (here in terms of its GNP) is not a particularly strong indicator for relative burdens accepted. Contrary to the expectations of Olsen's public goods hypothesis, one finds that the top positions in the Table and thus the highest 'burdens' are predominantly taken by smaller states. In other words, there is no evidence for the 'exploitation of the big by the small'; rather, the opposite appears to be the case.

As to hypothesis 2, the 'joint product' thesis suggests that free-riding in the provision of a particular good will be inversely related to the proportion of excludable outputs that the regime provides. In other words, the more country specific the benefits from accommodating refugees, the fewer opportunities will exist to free-ride. According to this model we might therefore expect countries 'closer' to a particular conflict from which refugees emanate to have the greatest interest in the stabilization of the crisis, and thus a greater willingness to accommodate refugees. By accepting displaced persons, a neighbouring country might expect to help in defusing a crisis, thus reducing the danger of the conflict spilling over into its own territory. In Table 2, column 2, 'closeness' in the Kosovo case is measured by geographic proximity between Member States' capitals and the capital of Kosovo, Pristina.

While the Austrian case appears to fit, the other results concerning the distance measure are more ambiguous. Instead of nearby countries such as Italy, Germany and Greece, it was more 'remote' countries such as Denmark and Sweden which accepted the highest number of Kosovo refugees in per capita terms. However, Germany and Italy did take a large number of displaced persons from Kosovo before the start of UNHCR's Humanitarian Evacuation Programme, which will have influenced their response to the HEP. In the case of Greece, sensibilities concerning the Albanian minority in the north of the country meant that Greece was concerned about heightened ethnic tensions on its own territory, concerns which appeared to have outweighed broader international security considerations. A more promising measure of 'closeness' is one based on historical or economic ties between the country where protection seekers originate from (here Kosovo) and the respective Member State (see Table 2, column 3). We find a strong positive correlation between the stock of former Yugoslavs already resident in particular Member States before 1999 and countries' willingness to accept HEP Kosovars.

The explanatory strength of public goods approaches that are based on cost-benefit considerations in the area of forced migration therefore appears to be limited and perhaps weaker than in other areas of collective burden-sharing (such as defence). Do norm-based explanations fare any better?

When looking at the evolution of asylum burdens in Europe over the period of the last ten years (Table 3), the figures presented suggest that despite the frequent calls for, and references to, European solidarity and the principle of fairness when tackling common challenges, there appears to be little evidence that such norms have played a significant role in guiding the behaviour of states.

Table 2

Evidence Relating to (Cost–Benefit) Hypothesis 2 (the Private Benefits/Joint Product Hypothesis)

	Number of Kosovars accepted under the HEP, per 1,000,000 inhabitants		Distance (national capital to Pristina, in miles)		Stock of foreign population from former Yugoslavia (1995) (percentage of total foreign stock)
Austria	627.94	Greece	424	Austria	45.55
Denmark	530.08	Austria	527	Germany	15.52
Sweden	420.99	Italy	555	Denmark	12.61
Ireland	274.67	Germany	886	Sweden	7.22
Netherlands	256.80	Luxembourg	1034	Italy	5.66
Luxembourg	232.56	Denmark	1128	Belgium	4.71
Finland	191.49	Belgium	1161	Netherlands	4.62
Germany	178.95	Netherlands	1199	Greece	3.66
Portugal	127.13	France	1202	Finland	3.50
Belgium	119.14	Sweden	1327	France	1.50
France	106.60	United Kingdom	1368	Ireland	n/a
Italy	102.14	Finland	1403	Luxembourg	n/a
UK	72.44	Spain	1607	Portugal	n/a
Spain	36.28	Ireland	1693	Spain	n/a
Greece	0.00	Portugal	1966	UK	n/a
Pearson Cor- relation Coefficient	1		–0.14		0.73

Source: UNHCR, OECD and own calculations.

As in the early 1990s, when the Bosnian refugee crises led to the first calls for an EU-wide refugee burden-sharing regime, it is still true today that a number of mainly smaller states carry a disproportionate share of the burden or responsibility of receiving asylum seekers. The standard deviation of asylum applications per head in Table 3 shows that the distribution of asylum seekers remains highly inequitable. This supports the conclusion also drawn by others in this volume that the burden-sharing instruments developed by the EU in the 1990s have, at best, been of limited effectiveness (and sometimes, as in the case of the Dublin Convention, arguably even counterproductive) in addressing the

Table 3

Evidence Relating to (Norm-based) Hypothesis 3 (the Equity/Solidarity Hypothesis)

Evolution of Asylum Burden (per 100,000 inhabitants)

Country	1990	1991	1992	1993	1994	1995	1996	1997	1998	1999
Austria	282	338	201	59	63	73	86	3	171	248
Belgium	127	148	172	263	140	112	121	115	215	349
Denmark ¹	357	243	377	310	150	189	139	105	114	131
Finland	102	89	268	278	129	99	114	98	110	125
France	93	80	49	47	44	34	29	36	38	52
Germany ²	235	312	534	393	155	156	142	127	120	116
Greece	59	25	18	8	12	12	16	42	28	15
Ireland	0	1	1	2	10	11	31	103	123	206
Italy ³	8	46	11	3	3	3	1	3	19	58
Luxembourg	0	0	0	0	0	91	60	100	398	677
Netherlands	134	137	129	224	333	185	140	218	286	249
Portugal	1	3	7	21	8	5	3	3	4	3
Spain	22	21	30	32	30	14	12	13	17	21
Sweden	332	309	948	424	210	102	65	109	145	127
UK ⁴	44	75	41	38	55	74	50	55	77	120
Standard Deviation	124	122	264	156	96	64	53	57	110	172

Source: UNHCR, own calculations.

Notes

1 Applications lodged by asylum-seekers arriving spontaneously in Denmark and those lodged at embassies abroad.

2 Excluding applications which have been 're-opened' (since 1997).

3 The 1999 figure, provided by the Government, includes applications not yet officially recorded by the Eligibility Commission. During 1999, the Eligibility Commission received 12,146 asylum applicants.

4 Figures refer to the number of applications. On average, there are some 1.3 persons per asylum application in the UK.

inequitable distribution of refugees in the EU (see also Thielemann 2003). Despite their frequent reference in the EU's official documents and communications, there is so far little evidence that the norms of solidarity and equity have significantly influenced the actions of Member States in moving towards a burden-sharing regime in the area of forced migration. So far, Member States have found it easier to agree on instruments that shift burdens to other states, both inside and outside the EU (see Byrne in this volume).

There appears to be evidence, however, that norm-guided behaviour has played a significant role in the relationship between recipient Member States and protection seekers which has had an indirect effect on the burden distribution among the Member States. With regard to hypothesis 4 we find substantive evidence for the claim that a country's willingness to receive

refugees is positively related to its more general commitment to norms such as physical protection and distributive justice. Using overseas development aid, recognition rates and domestic social spending in Table 4 as proxies for a state's commitment to such norms we find evidence for the claim that the variation of Member States' norm-based commitment is positively correlated with their relative willingness to accept Kosovo refugees under the HEP (for a parallel, see Lumsdaine's (1993) analysis of the post-war foreign aid regime). This correlation is less statistically significant in relation to domestic social protection expenditure but is stronger and statistically significant with regard to Member States' foreign aid payments and recognition rates. The chosen indicators are of course not without their problems. For example, Betts suggests in this issue that states' motivations for giving foreign aid might not be entirely altruistic. Moreover, some countries (such as the Netherlands) include reception costs for asylum seekers in their Overseas Development Aid (ODA) payments. In such a case, relatively high ODA figures will at least in part be a reflection of high numbers of asylum seekers rather than just an indication of the Netherlands' strong commitment to the developing world. These caveats notwithstanding, the evidence presented here nonetheless appears to provide some support for the hypothesis that a state's willingness to accept burdens is related to its commitment to particular norms and the protection of certain rights.

Conclusion

Recent EU initiatives in the area of forced migration (although clearly significant in institutional terms) do not appear to constitute a radical departure for the EU in burden-sharing terms. While it is remarkable that Member States managed to agree at all on the European Refugee Fund, a new (albeit small) EU redistributive instrument, without the provision of any significant side-payments, the negotiations leading to the creation of the ERF and the other burden-sharing instruments that have been created, once again have shown that interstate solidarity in the EU remains very low. The motivation for the creation of burden-sharing instruments, however, should nonetheless not be seen in exclusively cost-benefit terms. The move towards burden-sharing appears to have originated not out of a concern for other Member States (and their disproportionate share of the burden) but out of a concern over potential threats to the European integration project and the system of international refugee protection. It was feared that in the absence of a common European approach, migration pressures from third countries would not only pose a threat to the Single Market (and in particular the achievement of the principle of free movement within it), but that such uncoordinated action could also lead to an unravelling of important international human rights norms in the area of forced migration. In other words, a failure to agree on a common approach would not only have increased pressures for the re-establishment of border controls in the Schengen

Table 4

Evidence Relating to (Norm-based) Hypothesis 4 (the 'Norm Commitment'/Protection of Rights Hypothesis)

R A N K	Number of Kosovars accepted under the HEP, per 1,000,000 inhabitants) ¹	Grant equivalent of total Overseas Development Aid as % of GNP (1998–99 average)	Expenditure on social protection (as % of GDP) (1998)	Total recognition of asylum-seekers (average 1990– 1999) (in %) ²	R A N K
1	Austria 627.94	Denmark 1.02	Sweden 33.3	Austria 73.5	1
2	Denmark 530.08	Netherlands 0.85	France 30.5	Denmark 50.8	2
3	Sweden 420.99	Sweden 0.66	Denmark 30.0	Sweden 49.7	3
4	Ireland 274.67	Luxembourg 0.65	Germany 29.3	Ireland 43.4	4
5	Netherlands 256.80	France 0.45	Netherlands 28.5	Portugal 38.8	5
6	Luxembourg 232.56	Finland 0.35	Austria 28.4	Netherlands 29.4	6
7	Finland 191.49	Belgium 0.34	Belgium 27.5	Finland 24.5	7
8	Germany 178.95	Greece 0.30	Finland 27.2	Germany 20.0	8
9	Portugal 127.13	Germany 0.30	UK 26.8	Luxembourg 17.9	9
10	Belgium 119.14	Portugal 0.28	Italy 25.2	Italy 15.6	10
11	France 106.60	UK 0.27	Greece 24.5	Belgium 13.1	11
12	Italy 102.14	Austria 0.26	Luxembourg 24.1	France 12.3	12
13	UK 72.44	Spain 0.25	Portugal 23.4	UK 11.5	13
14	Spain 36.28	Italy 0.19	Spain 21.6	Spain 9.9	14
15	Greece 0.00	Ireland 0.15	Ireland 16.1	Greece 8.1	15
	Pearson Correlation Coefficient	1	0.47	0.35	0.92

Source: UNHCR and OECD.

Notes

1 Departures of Kosovar refugees from FYR of Macedonia up to 31 October 1999; Source: UNHCR/IOM.

2 Convention status and subsidiary forms of protection status granted.

area, thus threatening the operation of the Single Market, but would also have accelerated the drive towards burden-shifting and moves towards the lowest common denominator in reception standards. This would have had the potential of undermining some of the core principles of the international refugee regime, which, despite having recently been criticized (for example by UK Home Secretary Jack Straw (*Guardian* 2001)), has clearly shaped interests and identities of policy makers over the last fifty years (for a similar argument regarding general human rights matters see Risse and Sikkink 1999). The motivation for the attempt to find a common approach to the sharing of legislation, resources and refugees therefore appears to have been driven by both a 'cost-benefit' as well as a 'norm-based' logic.

When seeking to explain the pattern of EU burden-sharing in the area of forced migration, one cannot fail to notice shortcomings of public goods accounts developed in the NATO context. The results of this paper lead one to reject the standard public goods burden-sharing hypothesis which expects a systematic 'exploitation of the big by the small'. Attempts to identify excludable, country specific, benefits in this area appear problematic, with the empirical evidence providing an ambiguous picture. When taking a norm-based perspective, there is little evidence for increasing solidarity among the Member States. However, it was suggested that looking at countries' commitment to certain distributive and humanitarian norms in order to explain the varying willingness of states to accept burdens offers a plausible supplementary set of explanations. For these, while keeping in mind the limited number of variables included in the above analysis, the paper provides some supportive evidence (for a discussion of a more extensive list of variables see Böcker and Havinga 1997; Thielemann 2003). Most importantly, the above analysis therefore supports the claim that the two logics of social action, outlined at the outset of this paper, are not mutually exclusive. Political actors are constituted both by their interests, through which they evaluate anticipated consequences, and by the norms embedded in political institutions and their own identities. They calculate consequences and follow norms, and the relation between the two is often subtle.

1. Previous versions of this paper were presented at the 42nd Annual ISA Convention, Chicago, 21–24 February 2001, two workshops of the 'UACES Study Group on EU Burden-Sharing', the ECPR/IR Conference in Canterbury on 8–10 September 2001, the 2001 APSA Annual Meeting in San Francisco and the 2003 EUSA Conference in Nashville. The author gratefully acknowledges comments and suggestions received on these and other occasions, in particular from Torun Dewan, Mathias Koenig-Archibugi, Matt Gabel and two anonymous referees.
2. Despite its prejudicial connotations (in particular in the context of forced migration), the term 'burden-sharing' is used throughout the text to address questions of how to share responsibility between different territorial units for the provision of collective goods. Other terms, such as the Commission's call for an 'equal balance of efforts' between the Member States, have failed to become commonly accepted in recent EU debates.

3. Institutions here are defined in a broad sense as rules, norms and conventions that shape and inform human interaction. This definition has similarities with Krasner's definition of regimes as 'implicit or explicit principles, norms, rules and decision-making procedures around which actors' expectations converge in a given area of international relations' (1983: 2). It is useful to distinguish between institutions/regimes, and organizations. The EU or NATO are understood here as organizational embodiments of particular economic and security institutions/regimes.
4. The principal reason for such under-provision is linked to the problem of free-riding. To explain this problem Olsen (1965) points to the underlying tension between individual and collective rationality. If members of a group share an interest in having some policy adopted, this does not mean that it is in each individual's interest to provide a certain part of that good. Instead, according to Olsen's logic of collective action, it is in the interest of the individual member to 'free-ride' on the efforts of the other members. Such arguments have for example been applied to the NATO context not only to explain the motives for co-operation on national defence but also to demonstrate that members of an alliance have an incentive to cheat by 'free-riding' on the common security provided by the other members. The difficulty of preventing free-riding therefore points to one of the principal obstacles to the provision of collective goods. The public goods literature suggests that the principal way to persuade an actor to contribute disproportionately to a burden-sharing deal is through the strategic use of side-payments, linking one's contributions in one bargain to the receipt of benefits in another bargain that can be linked to the original one.
5. Durkheim distinguishes two types of solidarity. In his view mechanical solidarity exists in traditional societies where it emerges from the unmediated identity of its members. He distinguished this from a more modern form of solidarity—organic solidarity—which emerges from the functional interdependence of individuals' roles in modern societies. He argues that solidarity is therefore not just an old-fashioned concept that has all but lost its relevance. Increased interdependence that characterizes modern societies, while undermining traditional notions of mechanical solidarity, also provides a new source of solidarity (Durkheim 1983).
6. A look at the table of indicative percentage shares contained in the German draft shows that the proposal would above all have improved the situation of Germany which had received more than 60 per cent of all asylum applications lodged in the EU in 1992. The percentage shares, envisaged by the German proposal, read as follows: Germany (21.58), France (19.40), Italy (15.83), United Kingdom (14.28), Spain (13.63), Netherlands (3.55), Greece (3.20), Portugal (2.65), Belgium (2.42), Denmark (1.78), Ireland (1.54) and Luxembourg (0.12) (quoted in Noll 2000: 293, fn. 884).
7. In order to specify procedural steps necessary for the implementation of the September 1995 resolution, the March decision established a procedure to note whether a situation exists which requires concerted action by the European Union for the admission and residence of displaced persons on a temporary basis. It holds that the presidency, a member State or the Commission can call for an urgent meeting of the K4 Co-ordinating Committee, Council Decision on an alert and emergency procedure for burden-sharing (4 March 1996) (OJ No L63/10, 13 March 1996) (96/198/JHA).
8. Joint Action of 22 July 1997 concerning the financing of projects in favour of asylum seekers and refugees (OJ (1997) L 205: 5–6); Joint Action of 22 July 1997

concerning the financing of specific projects in favour of displaced persons who have found temporary protection in the Member States and asylum seekers (OJ (1997) L 205: 3–4). Corresponding initiatives a year later were the two Joint Actions of 27 March (OJ (1998) L 138: 6–9). These initiatives were aimed at improving admissions and at facilitating repatriation respectively. The Joint Action of 26 April 1999 (OJ (1999) L 114: 2–5), which was in part a reaction to the Kosovo crisis, develops these earlier joint actions by combining reception and voluntary repatriation in one instrument.

9. To support these objectives, the Fund is to support Member States' measures relating to the reception, integration and the repatriation of refugees and displaced persons (Art. 4(1)). Such action may apply in particular to accommodation, material aid, health care, social and legal assistance (Article 4(2)).
10. Five per cent of the Fund is reserved for Community Initiatives (Article 5(1)).
11. The UK and Ireland have opted in (para 22); Denmark is not participating in the adoption of the decision (para 23).
12. See Chapter VI of the Council Directive 2001/55/EC of 20 July 2001 on minimum standards for giving temporary protection in the event of a mass influx of displaced persons and on measures promoting a balance of efforts between Member States in receiving such persons and bearing the consequences thereof, OJ L 212/12, 7 August 2001.
13. The principle of solidarity was first explicitly used and accepted as a general principle of European law arising from the particular nature of the Communities in the case 'Commission vs. Italy' (ECJ 1973, 102). See also Commission vs. Great Britain 128/78 (ECJ 1978, 419). For more details see Schieffer (1998: 204).

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