

Editorial Introduction

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The term ‘burden-sharing’ was first prominently used in the context of debates about NATO contributions in the early 1950s. The essence of these debates, which continue until today, has been about sharing defence costs among the members of the North Atlantic alliance (that is, getting the Europeans to pay more). The adoption of this terminology in the context of forced migration is of course not unproblematic. However, despite its potentially prejudicial connotation in a human rights context in which one might wish the language of costs and benefits to be absent, the term ‘burden-sharing’ is used here to reflect the way the debate about the perceived and real inequalities in the distribution of displaced persons and refugees has been conducted in Europe over recent years. Attempts to replace the term in this area with a call for responsibility-sharing or the ‘equal balance of efforts’ between the Member States have had little impact on the way the public debate has been led.

The academic literature on international burden-sharing, that is, the question how the costs of providing collective goods or common initiatives should be shared between states, has its origins in the 1960s and has since then been prominent among researchers interested in the workings of international organizations (Olsen and Zeckhauser 1966; Boyer 1989; Oneal 1990). In Europe, these issues have primarily found their expression in debates about the net contribution of the EU Member States to the common European budget (Wallace 1980; Shackleton 1990; Begg and Grimwade 1998). More recently it has been possible to observe a widening of the European burden-sharing debate, with more questions being asked about Europe’s regional and global responsibilities in areas such as international security, climate change and increasingly, forced migration.

Questions about how costs related to the reception, determination and integration of refugees¹ are or should be distributed between states, have long been a preoccupation of national policy makers and UN officials. Previous studies on burden-sharing in this area have so far focused on the *international* level (Fonteyne 1983; Hathaway and Neve 1997; Hathaway 1997; Schuck 1997; Suhrke 1998). It is clear, however, that increasingly refugee burden-sharing issues have risen to the top of the political agenda at the *regional* level where, in particular in the context of the European Union, they have led to

unprecedented political and institutional developments. Despite frequent references to the idea of refugee burden-sharing in Europe, the term has not yet been properly conceptualized, and its ramifications in the European context have only begun to be more systematically analysed (Noll 1997, 2000; Harvey 1998; Barutciski and Suhrke 2001).

Against this background this special issue seeks to achieve two objectives. First, it aims to contribute to the nascent theoretical discussions on refugee burden-sharing by addressing the following questions: Why and under what conditions does burden-sharing beyond borders take place? Why are effective and equitable burden-sharing arrangements so difficult to achieve? Are burden-sharing arrangements the result of instrumental co-operation to overcome collective action problems? Or alternatively, is burden-sharing in this area driven by concerns about the protection of international human rights norms? Why are 'burdens' so unequally distributed and how can one explain existing patterns of burden distribution among states? How useful are public goods approaches, that have had a strong impact on the NATO burden-sharing debate, in the EU context? How can effective and equitable burden-sharing arrangements be achieved? These key questions will be addressed from a multi-disciplinary perspective that is informed by a set of legal, economic and political science concepts and models.

Second, this special issue also seeks to provide a systematic analysis of European burden-sharing initiatives and their effects over the past two decades. By analysing European developments across three dimensions—that of the EU, the Member States and developments in the wider European context (i.e. beyond the EU)—this special issue seeks to address the following empirical questions: What are the implications of EU attempts to *harmonize refugee policies* (such as steps towards an EU refugee definition), *share resources* (such as through the European Refugee Fund) and *redistribute protection seekers* (e.g. through the EU's temporary protection directive)? How successful have been EU attempts to find new ways of achieving credible burden-sharing commitments beyond the state? Can we observe emerging notions of cross-border solidarity in a European Union that has taken important steps to develop from an economic into an emerging political community? What are the promise and limits of new (soft) methods of inter-state co-ordination in this area? What can the EU learn from the burden-sharing experiences inside the Member States? What are the implications of EU initiatives in this area for countries outside the EU?

The purpose of this editorial introduction is to clarify some of the key concepts and to introduce the theoretical and empirical themes of this special issue, followed by a brief synopsis of the six contributions. The six papers are based on a series of workshops held at the London School of Economics and Political Science, which were generously funded by the University Association of Contemporary European Studies (UACES), the British Academy, the Suntory and Toyota International Centres for Economics and Related Disciplines (STICERD) and the Department of Government at LSE.

Concepts and Theory

It will be useful to start by explaining the title chosen for this special issue, *European Burden-Sharing and Forced Migration*. The *geographical focus* of this special issue is Europe and in particular the European Union. Apart from analysing EU initiatives, it examines how burden-sharing debates at the national level have informed EU developments (Boswell, this issue) and how in turn such developments have had an impact on other European countries outside the EU (Byrne, this issue). The analysis of *forced migration* here is focused on the discussion of real or perceived costs related to the arrival and integration of displaced persons and refugees who have sought protection outside their country of origin. Burden-sharing issues relating to internal displacement within countries of origin are beyond the scope of this special issue.

The term burden-sharing remains very much a contested concept. Seen by some as a 'weasel word' without substantive meaning, the definition of 'burden-sharing' is closely linked to the questions *what burdens* are being shared and *who is sharing them*. The main emphasis of this special issue is to explore burden-sharing from an inter-state perspective, asking how the costs of refugee protection are distributed among recipient European states. Some contributions (Boswell, Noll), however, highlight that this is by no means the only relevant dimension of burden-sharing in this area. One also finds heated burden-sharing debates within countries, in particular concerning the relationship between central government and subnational authorities at the regional and local level. Such domestic burden-sharing dynamics are often more obvious in federal states which tend to have explicit and highly developed redistributive mechanisms. However, it will be shown (Boswell, this issue) that such issues are equally relevant when more centralized states adopt measures that aim to disperse the burden of refugee protection internally in order to reduce pressures from a host country's metropolitan areas in which protection seekers are most likely to settle. While it makes analytical sense to distinguish between such different levels of analysis, it is important to keep in mind that these different burden-sharing dimensions are closely interconnected. For example, the way in which the EU distributes its money to subnational authorities (e.g. through the recently created European Refugee Fund) is likely to have an impact on subnational attitudes to inter-country burden-sharing arrangements (Noll, this issue).

Another conceptual problem of the burden-sharing debate, and indeed part of its origin, is the inherent difficulty in quantifying and comparing costs. Measuring 'burdens' in monetary terms excludes many factors that do not lend themselves to such measurement. In the refugee context, recipient states are above all concerned about the absolute and relative numbers of refugees that they have to deal with and they appear to be as aware about direct costs of subsistence, schooling, healthcare or the determination process as they are about the more indirect costs of social integration. Therefore they are not only

concerned about the absolute numbers of refugees they receive but also about their composition in terms of age, gender and ethnicity. Moreover, it is also useful to distinguish between the costs of reactive measures that states take as a result of refugee flows, as they look for the sharing of deflection, reception and integration of refugees, and the cost-sharing of more 'pro-active' measures aimed at preventing or resolving a particular refugee crisis by tackling root causes or by engaging in peacekeeping and peacemaking missions. While such a broader definition of costs is of course desirable, relative numbers of protection seekers are often the most reliable comparative data available in this context. Having explored some key reference points in the conceptual discussion on burden-sharing, the following section will introduce the three core theoretical concerns addressed by this special issue.

The Motivation for Burden-Sharing

The first of these addresses the question why states seek to develop burden-sharing arrangements in the first place. The purpose of any burden-sharing regime is to institutionalize a system of redistribution that allocates burdens differently from how they would otherwise be. While it is unsurprising that the likely winners from such a redistributive mechanism would be in favour of such a development, it is less clear why the potential losers would support it. Unlike processes of market integration in the EU context, which have often been portrayed as being positive-sum (or 'win-win') in nature, redistributive burden-sharing agreements will tend to create winners and losers. So, why would the losers agree? A number of possible answers to this question have been developed in the literature on European integration. First, there is the option of buying off potential losers through the use of side-payments. Second, on the basis of an insurance rationale, it might make sense for states to accept losses in the short term in order to insure themselves against the possibility of being faced with even higher costs at some point in the future. Third, one might ask to what extent the European Union, with its stated ambition to represent not only an economic community but also a political one, is fundamentally different from other international organizations. And therefore whether emerging notions of cross-border solidarity in Europe facilitate burden-sharing agreements beyond the state. Finally, one might expect that in the area of refugee protection, the motivation of states is not so much about cost minimization but about guaranteeing adequate safeguards for protection seekers. If non-cooperation in this area is seen as leading to the under-provision of 'protection' and increased human suffering, states might accept an agreement on the basis of their commitment to human rights, despite the fact that the redistributive effects of a particular burden-sharing regime are not stacked in their favour. Both these possible interest- and norm-based explanations will be further developed and empirically tested in the subsequent individual contributions.

Obstacles to Burden-Sharing

The second issue is related and concerns the obstacles that policy makers are faced with when trying to put in place effective and equitable burden-sharing arrangements. This question is closely related to the question of how we conceptualize the collective good of refugee protection. Some of the most influential writing on burden-sharing in this area (e.g. Suhrke 1998) has described refugee protection as a public good, i.e. one that by definition is characterized by properties of non-rivalry and non-excludability. In other words, a twofold claim is made: (1) that the protection offered by the Geneva Convention, in principle at least, is not undermined as the number of asylum seekers increases; and (2) that the benefits provided by the regime cannot be restricted to only those states which contribute to that refugee protection regime. Public goods theory (Olsen 1965) suggests that the nature of goods with these specific characteristics creates extensive free-riding opportunities which undermine the creation and maintenance of burden-sharing regimes aimed at providing such goods. However, some of the theoretical contributions in this special issue cast serious doubt about characterizing refugee protection as a public good (Betts, Thielemann). Instead, it is suggested that asylum policies become more restrictive with rising numbers of asylum seekers (Vink and Meijerink) and that it is possible to identify excludable benefits that only accrue to those states that contribute to a burden-sharing regime aimed at safeguarding the protection of refugees (Betts). However, despite the fact that free-riding opportunities appear to be less systematic and less pronounced than is often assumed, it will be seen that states have nonetheless been generally reluctant to commit themselves to open-ended burden-sharing obligations in this area.

The Distribution of Burdens

Given the highly unequal distribution of costs among states in providing certain collective goods, the theoretical literature on burden-sharing has tried to develop models that can account for the variation in costs that states are prepared to accept in contributing to a particular burden-sharing regime. In the case of forced migration one observes vast variation, both in the attractiveness of different Member States as destination countries for protection seekers and in the willingness of EU countries to harbour refugees. The contributions in this special issue move beyond theoretical models which exclusively focus on variations in free-riding opportunities to explain such disparities by developing and testing several hypotheses based on both rational choice and norm-based assumptions of social action. Having questioned the collective good characteristics of refugee protection as traditionally perceived, Betts uses the literature on the economics of philanthropy (Andreoni 1989) to hypothesize and test the notion of 'impure altruism' in this area, i.e. the extent to which what appears norm-driven behaviour on the surface is indeed action that aims

at certain country-specific benefits that do not necessarily have the well-being of protection seekers at their core. From a norm-based perspective, one might expect burden-sharing to be driven by particular values such as the belief in the principle of equity or the sanctity of human rights. One might therefore hypothesize that the greater the commitment of a state to a particular norm that is safeguarded by a certain burden-sharing regime, the greater this state's willingness to accept costs resulting from the establishment or maintenance of such a regime. By analysing states' attitudes on other redistributive policy issues such as social protection or foreign development aid, an attempt is made to empirically explore such norm-based accounts of refugee burden-sharing (Thielemann). The findings in this special issue support the claim that both strategic and reputational factors must play a part in our attempts to explain patterns of burden distribution in the EU and these results are confirmed by other recent research in this area (Robinson and Segrott 2002; Thielemann 2003).

European Burden-Sharing in the Area of Forced Migration

The empirical objectives of this special issue are twofold: (1) to analyse concrete steps that have been taken in Europe with the aim of sharing refugee burdens; and (2) to assess the effect of these measures on the distribution of protection seekers. Following Noll's (2000) categorization, there are essentially three ways to address the unequal distribution of protection seekers that states are faced with: (1) harmonizing refugee and asylum legislation (sharing policy); (2) redistributing resources (sharing money); and (3) re-allocating protection seekers (sharing people).

Sharing Policy

A first possible approach to achieve a more equitable distribution of burdens in this area is to take a common policy approach through either multilateral action or the harmonizing of domestic refugee legislation. The 1951 Geneva Convention and its reference to inter-state solidarity can be seen as an example of the former, as can the 1967 UN declaration on Territorial Asylum which stated that 'where a State finds difficulty in granting or continuing to grant asylum, States individually or jointly through the UN shall consider, in a spirit of international solidarity, appropriate measures to lighten the burden on that State' (UN 1967: article 2.2). Similarly, the UNHCR Executive Committee recently stated that 'international solidarity and burden-sharing are of direct importance to the satisfactory implementation of refugee protection principles' (EXCOM General Conclusions on International Protection No. 85 (XLIX) of 1998 para (p)). With regard to policy harmonization, the EU has since the mid 1980s worked towards the convergence of Member States' laws on forced migration. What started with initially non-binding intergovernmental instruments has since then been followed by developments in Community law. Important stepping stones were the 1995 Resolution on Minimum Guarantees

for Asylum Procedures (Council Resolution of 20 June 1995, Official Journal of the European Union (OJ) C 274), the 1999 Amsterdam Treaty establishing a Common European Asylum System (for an overview see Guild and Harlow 2001), the 2002 political agreement at the Brussels JHA Council regarding a common definition for persons eligible for refugee and subsidiary protection status and the 2003 directive on common reception conditions (OJ L/2003/31/18). There are indications that some of these steps have already contributed to the limited convergence of Member States' refugee burdens since the early 1980s (Vink and Meijerink, this issue). The significance of these initiatives notwithstanding, policy harmonization can of course only address imbalances which are due to differences in domestic legislation in the first place. As is widely accepted now, policy differences are only one of several determinants for a protection seeker's choice of host country, with other structural factors such as historic networks, employment opportunities and a host country's reputation being equally important (Thielemann 2003).

Sharing Money

Given that the process of tackling disparities in refugee burdens through policy harmonization is slow and is likely to remain limited in its effect due to the existence of other, pull factors, another way to address disparities is retrospectively, through the payment of financial compensation to the most popular destination countries. At the global level, countries' voluntary contributions to UNHCR to help the organization run assistance programmes in those refugee hosting countries that face disproportionate burdens, can be regarded as one, albeit limited, form of such financial burden-sharing arrangements (Acharya and Dewitt 1997; Betts, this issue). As most of these contributions constitute 'tied aid', i.e. have strings attached to them as to how they can be spent, it is clear that the motivation behind these payments can be quite complex. In the EU, explicit fiscal burden-sharing in this area has been taking place since the establishment of the European Refugee Fund (ERF) which was put in place to support and encourage efforts of the Member States in receiving and bearing the consequences of receiving refugees and displaced persons (European Council 2000). This Fund (see Noll, Thielemann, this issue), which is jointly financed by the Member States, seeks to support special projects for the reception, integration and repatriation of refugees and displaced persons. Despite its rather modest budget, in financial terms it is still the largest EU programme on asylum and immigration. Over time its resources will increasingly be dispersed 'proportionately to the burden on each Member State by reason of its efforts in receiving refugees and displaced persons' (para 2). The Fund's burden-sharing objectives are clearly stated in the preamble of the Council decision establishing the ERF, which holds that the implementation of European asylum policies should take place on the basis of the idea of solidarity between the Member States. Reference to the norm of

solidarity can also frequently be found in EU initiatives that aim at the physical redistribution of protection seekers.

Sharing People

The idea of ‘people sharing’—the redistribution of protection seekers from one host territory to another on the basis of some measure of reception capacity—is by far the most effective but ultimately also most controversial way to address disparities in refugee burdens. Advocates of such policies argue that this is the only way to effectively equalize the costs incurred by host territories, as such measures capture not only costs linked to reception and determination but also those less quantifiable costs related to the integration of protection seekers. Opponents emphasize the risks to both the individual (related to a secondary uprooting) and to the new host territories, which might lack the social support networks of the protection seekers’ initial destination and which therefore might ultimately lead to higher total costs for the group of host countries operating such a scheme.

UNHCR’s resettlement policies, which were first comprehensively used during the Indo-Chinese refugee crisis of the late 1970s, are based on the idea of people-sharing. Resettlement-like policies were also used by UNHCR during the Kosovo crisis (Suhrke 1998; van Selm 2000; Thielemann, this issue). Since then, related ideas of ‘processing and protection in the region of origin’ have found renewed interest in a number of EU states (see e.g. Home Office 2002) and in the European Commission (European Commission 2002). It seems clear, however, that the idea of protection in the region is sometimes used to deflect rather than share burdens (Byrne, this issue). Similarly, the Dublin Convention,² which determines the Member State responsible for the examination of an asylum request, despite often being hailed as a responsibility sharing instrument, should not be regarded as an effective burden-sharing mechanism (Vink and Meijerink, this issue).

However, there have been a number of recent EU initiatives which have taken the idea of people-sharing more seriously. These have been influenced not only by the recent experience with the refugee crises in Bosnia and Kosovo but also by people-sharing arrangements one finds in the refugee regimes of several Member States (Boswell, this issue). Particularly noteworthy in this context is the 2001 *Council Directive on Temporary Protection in the Case of Mass Influx* (Council Directive 2001/55/EC of 20 July 2001, OJ L 212, 7 August 2001). As the Member States were unable to agree on a fixed distribution key for protection seekers, the directive develops a range of ultimately non-binding mechanisms based on the principle of ‘double voluntarism’: the agreement of both the recipient state and the individual protection seeker is required before protection seekers can be moved from one country to another. Being fundamentally different from the original 1994 German proposals for a physical European refugee-sharing system (reprinted

in UNHCR 1995), the effectiveness of such new methods of 'soft' co-ordination and burden-sharing in this area still remains to be tested in practice.

In contrast to the long and arduous birth of an intra-EU people-sharing instrument, Member States have found it much easier to agree on measures aimed at 'shifting' the burden of refugee protection to countries outside the EU, in particular to transit countries in Central and Eastern Europe (Lavenex and Uçarer 2002; Byrne, this issue). Readmission agreements, for example, have long been a popular instrument for many Member States and the Council has recently given the European Commission the mandate to negotiate such agreements on behalf of the Union. The first of these was signed with Hong Kong in 2001. While EU readmission agreements are a relatively new phenomenon, it is a practice that builds on standard readmission clauses which have long featured in some of the EU's Association and Co-operation Agreements. The conclusions of the European Council in Seville (European Council 2002: 10) urged that any future cooperation, association or equivalent agreement which the European Community concludes with any country, should include a clause on the joint management of migration flows and on compulsory readmission in the event of illegal immigration. It seems that despite the concerns that 'people sharing' raises, this is the area of EU burden-sharing initiatives in which Member States see the greatest scope for the reduction in the refugee burdens over the coming years.

The aim of the study group behind this special issue was to bring together a multidisciplinary group of researchers to address the topic of European burden-sharing and forced migration from various conceptual and empirical angles. The first three articles that follow this introduction seek to contribute to our conceptual understanding of the term 'burden-sharing' from a legal, an economic and a political science perspective. Noll's paper takes a broad legal approach and analyses the problems that an international lawmaker is faced with in this area. He focuses on the concept of risk and discusses European burden-sharing as a multi-actor, multi-level game that involves states, sub-state entities and protection seekers. Thielemann's paper is grounded in the political science literature and deals with the question of motivations for burden-sharing beyond the state. It also seeks to assess competing accounts for the patterns of burden distribution that one can observe in this area. His article complements interest-based hypotheses with non-rational choice ones and he suggests that differences in Member States' commitment to certain norms can help to explain variation in their willingness to host protection seekers. The contribution by Betts is based on insights of the economic theory of alliances and questions the often held assumption of refugee protection being a pure public good. He argues that one can identify private (excludable) benefits that countries derive from accepting displaced persons and that this has important implications for the type of burden-sharing regime that is likely to be effective and politically feasible.

The other three papers are empirical in focus and deal with European burden-sharing at three different levels: that of the EU, the Member States and

the wider European context. The paper by Vink and Meijerink presents a quantitative analysis of asylum applications and recognition rates in EU Member States over the past two decades. Their results show a significant correlation between those two variables. They also suggest that one has been able to observe some limited convergence in the evolution of the disparities in Member States' relative refugee burdens over the past twenty years. Boswell takes a national burden-sharing perspective and asks what the EU can learn from British and German dispersal policies as it tries to develop a physical burden-sharing system that is both effective and humane. Drawing on the national-level analysis, she identifies necessary conditions for the successful implementation of dispersal systems, but finds that most of these conditions are not met at the EU level. Finally, Byrne's study analyses the impact of emerging EU burden-sharing initiatives on the newly democratized Central and Eastern European Countries (CEECs). She argues that the transfer of the EU's asylum *acquis* to the CEECs will advance protection standards in these countries but is likely to further increase the numbers of protection seekers that these countries will be faced with. Her analysis therefore complements the other contributions to this special issue by underlining the need to develop more comprehensive burden-sharing mechanisms within and beyond the EU.

1. The term 'refugee' here is used broadly and is taken to include all types of protection seekers. Where the term is used in its narrower legal sense, reference to the Geneva Convention is made.
2. The intergovernmental Dublin Convention is about to be replaced by a new EC directive following a political decision at the Copenhagen European Council in December 2002.

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