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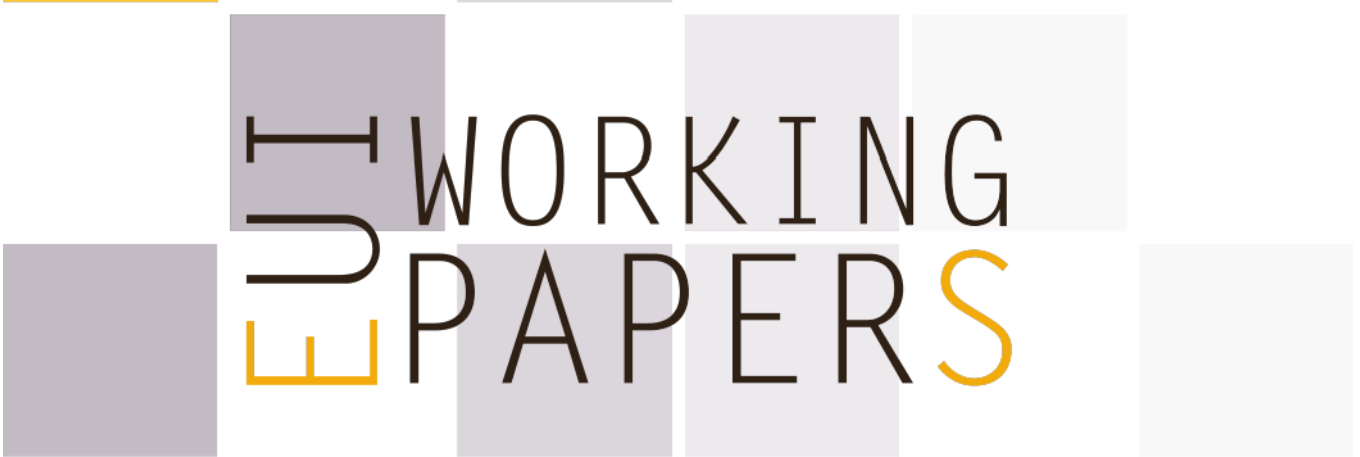# Problematizing the Norms of Fairness Grounding the EU's Relocation System of Shared Responsibility

Raluca Bejan

European University Institute

Robert Schuman Centre for Advanced Studies

Global Governance Programme

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Abstract

This paper problematizes the logic of the European Union (EU)'s provisional relocation system for internally re-distributing asylum seekers. It argues that the tenets embedded in the current relocation scheme disregard the idea of distributive equity and apply the principle of solidarity and the fair sharing of responsibility asymmetrically between Member States. Equally matched levels of shared responsibility are not synonymous with fair responsibility. Member States are not equal actors across the EU's political, economic and social spheres. To achieve fairness, the distribution of inter-state responsibility must use unequal rather than equal scaling weights. This paper proposes the concept of differing egalitarianism to guide inter-state responsibility sharing efforts vis-à-vis the transfer of people in need of international protection within the EU.

Keywords

Introduction[*]

Irregular migration and mass displacement constitute growing global realities. Narratives of people crossing national borders have for long been present in both the public and the media eye. One can easily think of the influx of persons from the former Eastern Bloc into Austria and Germany after the collapse of the Berlin wall; the millions displaced by the Bosnian and Kosovo wars in the 1990s; the recent wave of refugees following the conflicts in Afghanistan and Iraq, the Libyan Civil War and the ongoing Syrian war.

Although migrants have been stranded in Lebanon, Jordan and Turkey for years, the refugee crisis only became a crisis when people entered the European continent in substantial numbers. Boat arrivals from the Middle East and Africa reached record levels in the summer of 2015, especially on the Italian coasts of Augusta, Lampedusa, Porte Empedocle, Pozzalo, Taranto and Trapan and the Greek shores of Lesvos, Chios, Leros, Samos and Kos. According to UNHCR data, sea arrivals totaled 1,015,078 in 2015, 362,753 in 2016 and 172,301 in 2017 (UNHCR, 2018). In Italy, particularly Lampedusa, most migrants from Nigeria, Eritrea, Guinea, Côte d'Ivoire, Gambia, Senegal, Mali and Sudan were arriving from Libya (UNHCR, 2016)[1]. Syrians, Afghans, Iraqis, Pakistanis and Iranians were entering Greece from Turkey and later Hungary through the Western Balkan route (UNHCR, 2016). Hungary was confronted with an unexpected wave of entries. In the first half of 2015, 161,000 people claimed asylum in Hungary (Amnesty International, 2015); numbers estimate that about 400,000 people transited through its territory since the beginning of the crisis (Al Jazeera, 2016). However, Hungary ultimately represented a temporary 'hot spot'; most protection seekers hoped to reach the Northern European states due to healthier labour market prospects. In 2015, about 160,000 people transited to Northern Europe via the Western Balkan route (Kingsley, 2015). Former destination countries (i.e., Malta and Spain), which a decade ago were confronted with large numbers of arrivals, had seen few entries this time around (Dearden, 2015). According to references from the EU Court of Justice (CJEU) between 2014 and 2015, the number of irregular entrances at the EU borders increased by 546% (CJEU, 2017).

Confronted with a high influx of refugees, entry states struggled to provide timely processing of asylum claims and adequate integration support for those officially recognized as refugees. In response to the situation, the European Commission drafted a proposal (European Commission 2015a; European Commission 2015b) enabling the European Council to adopt provisional measures for assisting Italy, Greece and Hungary with the relocation of persons in need of international protection (people already claiming asylum within EU) to the least affected Member States. The proposal was drafted on the basis of the Treaty on the Functioning of the European Union (TFEU), Article 78 (3), which states the following:

> "In the event of one or more Member States being confronted by an emergency situation characterized by a sudden inflow of nationals of third countries, the Council, on a proposal from the Commission, may adopt provisional measures for the benefit of the Member States concerned" (Official Journal of the European Union, 2012).

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[1] During the 2015 crisis entries within Italy changed the former demographic trends where arrivals were mostly of Tunisian origins (Vanheule, van Selm & Boswell, 2011).

Article 78 constituted the legal basis for proposing the provisional measures for relocation. However, it was Article 80 of the TFEU that unveiled the conjectural grounds of the relocation scheme. Article 80 states that the principle of *solidarity and fair sharing of responsibility* governs the implementation of EU policies across Member States (Official Journal of the European Union, 2012). This means that states are expected to show solidarity in emergency situations, and that such solidarity efforts should be shared equally by all. A quota-based provisional system for transferring persons in need of international protection was adopted by the Commission in September 2015 as a consequence of two decisions. The pronouncements were not well received. Many states refused to comply with the provisional decisions and politically charged disputes over legal and procedural matters were brought to court. Hungary and Slovakia launched two claims at the CJEU, in December 2015 (C-647/15 and C-643/15). In June 2017, the EU launched an infringement procedure against the Czech Republic, Hungary, and Poland for failing to comply with the decisions.

Why did the relocation plan generate such conflict? The Western European media was quick to attribute the scheme's failure to the Eastern European Member States' racist and xenophobic attitudes (Bejan, 2016; Bejan, 2017a). Contrary to public accounts blaming national peculiarities on states' unwillingness to share responsibility, this paper argues that inter-state conflictual issues originated from contradictory ideological interpretations of the ideas of *solidarity* and *equity* as well as the different perceptions of what it means to fairly share responsibility with respect to migration matters. The equal sharing of responsibility is not synonymous with equitable responsibility. Member States are not equal actors across EU's political, economic and social spheres. This paper critically examines the sociopolitical considerations grounding the principle of *solidarity and fair sharing of responsibility* and its equal implementation within the current relocation scheme. It argues that an *unequal rather than an equal scale* of measuring/distributing responsibility is needed for equitably sharing responsibility.

The paper starts by providing a brief overview of the literature on 'responsibility-sharing' within EU's migration field and outlines the methodological approach that grounds its argumentative developments. It then enters the analysis by describing the relocation scheme and the decisions adopted by the European Council. It insists on the frictions that exist between the Member States with respect to the relocation plan. It defines and further maps the various ideological interpretations of the principle of solidarity and the fair sharing of responsibility. The article concludes by proposing the concept of *differing egalitarianism* as a fairness norm that ought to guide the allocation of inter-state responsibility. Differing egalitarianism overcomes the blind spots of the prevailing scheme and adequately responds to the relevant differences that exist *in-between* Member States vis-à-vis the relocation of persons in need of international protection.

Context: Responsibility-Sharing

Grounded in ideas of supranational integration rather than those defined by the parameters of the nation-state, the normative perspective of equitably allocating entitlements within the EU and of balancing the asymmetrical relationships existent among the Member States, in terms of distributing advantages and disadvantages for maintaining social cohesion in the Union (Habermas, 2015), is legally instated across various policy fields. This can be observed in matters of judicial cooperation, criminal law, policing, border control, immigration and asylum, the provision of fundamental rights, in matters of economic, social and structural funding as well as in the areas of agriculture, fisheries, transport and greenhouse gas emissions (Barnard, 2010; Bigo, Carrera & Guild, 2008; Küçük, 2016; Marklund & Samakovlis, 2007). Mechanisms of shared responsibility are also implemented through the fiscal redistribution of structural funding (Goodhart & Schoenmaker, 2009), for instance through the European Structural and Investment Funds (ESIF), the European Agricultural Guarantee Fund (EAGF), the European Regional Development Fund (ERDF), and the European Social Fund (ESF) (Armstrong, 2017). In the field of migration, the Common European Asylum System (CEAS) exemplifies the supranational idea of integration in practice. The CEAS establishes a common EU-

wide policy on asylum, external borders and immigration (Küçük, 2016). It coordinates the joint processing of asylum claims, the provision of asylum expert teams for registering protection seekers, the management of voluntary internal relocation, the subsidiary protection for nationals of third countries, as well as the coordination of border management through Frontex (Thielemann, Williams & Boswell, 2010). Other examples that aim to coordinate refugees' integration and reduce the inequalities in the distribution of asylum costs include the European Refugee Fund (ERF), the European Fund for the Integration of Third-Country Nationals (EIF); the External Borders Fund (EBF); and the European Return Fund (ERF) (Thielemann, Williams & Boswell, 2010).

A highly contested regulation that aimed to implement common standards under CEAS is the Dublin agreement. Considered the backbone of Europe's shared responsibility in asylum matters (Küçük, 2016), the Dublin regulation was adopted in 2003 with the scope of determining the responsible Member State as it concerns asylum applications, generally binding asylum claims to the state of entry. The Dublin agreement rests on the conjecture that asylum laws are uniformly applied across all EU states, assuming that shared criteria is outlined under CEAS (European Commission, 2018a). Member States are expected to trust each other and to share responsibility equally for the settlement of asylum seekers (Küçük, 2016). Many activists, academics and policy makers called the Dublin regulation unfair: it takes geographical location as the main criterion in allocating responsibility (Küçük, 2016); it increases the pressure on states located on the EU's external borders and on the asylum claimants entering those states; and it leads to a series of discretionary bureaucratic abuses (Küçük, 2016). One such example is the case of Anwar Nilufary. Anwar was born in Iran and eventually fled--first to Iraq and later to Turkey. In September 2014 he entered Greece, continued his journey to Sweden and was deported back to Greece in September 2015, at a time when the Dublin agreement was suspended and asylum responsibility was waved from Greece (Bejan, 2017b; Blitz, 2017). In 2011, the European Court of Human Rights ruled that transfers to Greece under the Dublin scheme should be suspended due to inadequate living conditions and ineffectual asylum procedures (Blitz, 2017). This judgment was in effect when Anwar Nilufary was deported back to Greece.

Discussions on responsibility-sharing in relation to EU migration management have burgeoned within the last two decades. In criticizing the Dublin agreement, alternative solutions were considered with the goal of developing a fairer system of managing asylum applications, one that would equally disperse asylum claimants across the Member States and one that would assist the countries facing higher entries. The idea was to harmonize a policy of commonly sharing responsibility for processing asylum applications and protecting refugees in accordance with states' capacity of absorbing people (Bovens, Chatkupt & Smead, 2011). Most ideas proposed the development of a system of mathematically equalizing the capacity to absorb and distribute asylum seekers in-between EU states (Bejan, 2017c; Bejan, 2016). Mathias Czaika (2005) recommended the development of a refugee burden index that equally weighs indicators reflective of economic, socio-demographic and socio-political dimensions: GDP per capita for economic capacity, population density for demographics, ethnic composition/ fractionalisation for socio-political acceptance and efficiency of governmental institutions for politico-institutional performance.

Some proposed the inclusion of additional standalone indicators, such as the existent numbers of asylum seekers, the asylum costs incurred within the respective state, the reception conditions (i.e., schooling, health-care, etc.), the inclusion of the Fragile State Index, which measures national opposition to foreigners, as well as the voluntary consent of the asylum claimant on relocation (Carlsen, 2017; Thielemann, Williams & Boswell, 2010).

Four responsibility-sharing models were proposed by Thielemann, Williams & Boswell (2010). These include: dispersal mechanisms (i.e., physical relocation); financial flows; common standards; and mechanisms determining the asylum responsibility of the Member State (i.e., currently covered by the Dublin regulation). Thielemann, Williams & Boswell (2010) created three differentially scaled formulas to identify a combined capacity index to indicate states' ability to absorb people. The selected indicators included: the GDP per capita, population and territorial size, and population

density. On the one hand, when the GDP indicator was highly weighted, the Member States of Sweden, Finland, France, Ireland and the UK were highest ranked in terms of their absorption capacity; Romania, Bulgaria and Malta were at the bottom of the scale. On the other hand, when the combined values of states' GDP per capita and population size, and GDP per capita and population density were highly weighted, Germany, the UK, France and Finland, Sweden and Ireland were all standing tall on the ranking side, while Estonia, Romania, Bulgaria, and Malta ranked lowest. Thielemann, Williams & Boswell (2010) combined each capacity index with a stock and flow index (i.e., based on the number of asylum applications) in order to create an asylum responsibility index. The distributive scenarios discussed by Thielemann, Williams & Boswell (2010) identified the states receiving more or respectively less of their fair share. However, the authors did not engage with discussions of what normatively constitutes a fair mechanism of responsibility-sharing.

Bovens, Chatkupt & Smead (2011) examined distributive scenarios based on singular similar indicators. Bovens, Chatkupt & Smead (2011) ordered the Member States from applicant-poorest to applicant-richest and juxtaposed these numbers to states' absorption capacities, once again calculated by GDP and population measures. They concluded that the inequalities in responsibility-sharing are the largest when measured by population size and smallest when measured by the GDP (Bovens, Chatkupt & Smead, 2011). Indeed, this premise was also demonstrated in the case of internal relocation within Germany. Observed-to-expected ratios for the relocation of asylum seekers across the sixteen German regions showed that the richest states receive disproportionally fewer entries compared to the poorest regional districts (Bozorgmehr, Szecsenyi, Stock & Razum, 2016).

Moraga & Rapoport (2014) examined the application of Tradable Refugee Quotas (TRQs) in the coordination of states' asylum policies, by taking into account refugees' preferences as well as states' preferences over the refugees (i.e., in terms of selecting them based on their language skills, country of origin, etc.). The TRQs system follows the idea of double voluntarism introduced by Thielemann, Williams & Boswell (2010). This requires the consent of both, the state and the asylum seeker in the relocation decision. Within this model, each asylum seeker ranks their preferred destination countries, while the EU randomly orders the refugees, unless there is an *a priori* preference to prioritize entries. This model aims to address the heterogeneity existent among Member States and to tackle the opposition of the new EU Members to the relocation scheme[2] (Moraga & Rapoport, 2014).

Responsibility-sharing efforts were criticized for prioritizing fairness of the Member States at the expense of disregarding the interests of asylum seekers (Küçük, 2016). What might constitute a fair approach for the state might not be a fair approach to the asylum seeker. Indeed, such equations do not take into account the interests of the refugees in terms of their preferred relocation state. Forced relocation contradicts the Geneva Convection, which outlines a state's obligation to respect refugees' rights and interests (Bozorgmehr, Szecsenyi, Stock & Razum, 2016).

There are several examples in the field of migration, besides the current relocation scheme, that are indicative of the implementation of responsibility-sharing: the pilot relocation project, EUREMA, which was implemented in Malta from 2009-2013; or the internal relocation program developed in Germany, which aimed to disperse asylum seekers in-between Länder (i.e., regional governments) within the country; this was intended to offset the financial reception costs covered at the local governmental levels in Germany (Thielemann, Williams & Boswell, 2010).

Responsibility-sharing efforts are also encompassed within the search and rescue missions in the Mediterranean and Aegean seas, and overall within border-management activities (Bărbulescu, 2016; Thielemann, Williams & Boswell, 2010). For instance, if Frontex patrols increase in one state, they

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[2] Moraga & Rapoport (2014) identify the absence of migrant communities within the newest EU Member States as the primarily motive of these states' opposition to the relocation scheme. If states would have the choice of selecting the 'type' of asylum seekers they prefer (i.e., let us say Christians for example), they would be more inclined to participate in relocation mechanisms and respectively in responsibility-sharing efforts.

subsequently put pressure on other states as flow of entries trail border controls (Thielemann, Williams & Boswell, 2010). Hence, responsibility-sharing is also understood, in policy terms, as the coordination of a uniform system of maritime control.

Participation in systems of shared-responsibility are based on what Habermas has (2015) called the predictability of reciprocal conduct: those with higher levels of absorbing capacity are expected to make greater contributions to the chosen scheme. This is based on the idea of ethical guarantees that countries which share the 'burden' now will be assisted later if they were to face high refugee inflows (Thielemann, Williams & Boswell, 2010). The scholarly literature on responsibility-sharing examined the indicators chosen within the current relocation scheme and the weight allocated to such indicators. However, there is little scholarly engagement juxtaposing these relative indicators that measure states' absorption capacity to ideological interpretations of the notions of solidarity and fairness in guiding Union-wide responsibility-sharing efforts. Some have argued for the introduction of additional indicators (Carlsen 2017) while others used the same indicators but changed their weighing scale (Thielemann, Williams & Boswell, 2010). Most scholars, however, have failed to discuss the conceptual rationale for the choice of the selected indicators and their respective weighing scheme. The related literature does not explore the ways in which these notions have been operationalized in actual responsibility-sharing schemes nor the ideological stance grounding such distributive formulas. The selection of one indicator and not another, as well as their apportioned weight, are political decisions and do not solely reflect mathematical evaluations. They depend on what and how those tasked with drafting distributive mechanisms interpret what constitutes a fair sharing process or a fair distributive mechanism. The goal of this paper is to address such gaps and to discuss which indicators should be used, as well as the reasons for how and why these specific indicators should be used.

Methodological Approach

This is a theoretical paper. However, the author has built the analysis using a so-called case-study approach on the relocation scheme. Various data sources were examined in order to holistically contextualize, several axes of differentiation at play within the EU's application of shared responsibility efforts. Grounded within a constructivist paradigm, the case-study approach is generally used to generate in-depth explanations of a contextually situated phenomenon (Baxter & Jack, 2008; Zainal, 2007; Tsang, 2001; Yin, 1984). Case study approaches are deemed particularly relevant in instances when the analytic intentionality aims to uncover the contextual conditions that weigh on the subject matter and directly relate to the phenomenon under study (Baxter & Jack, 2008). The literature identifies three streams of case study approaches: exploratory, descriptive and explanatory (Zainal, 2007). In exploratory efforts, observations of interest to the researcher are collected prior to the formulation of research questions. In descriptive case studies, the researcher describes data in order to generate a narrative picture of the phenomena studied. In explanatory stances, the researcher intends to first understand and then explain a phenomenon. Theory development is generally intended to explain societal circumstances.

Other classifications of case study research refer to interpretative and evaluative approaches (Zainal, 2007). In interpretative efforts, the researcher develops new conceptual categories for understanding data. In evaluative case studies, the researcher appends a judgment when interpreting the phenomena pertained to the case studies. To a certain extent, this paper follows an evaluatory case-study approach. It provides evidence to support the development of an interpretative account of the relocation scheme. Evaluations are theories; theories are made up of arguments; and arguments are discourses circulated to support or reject claims about society at large or about specific segments in society. On the one hand, this paper builds a set of arguments that contest certain conceptual tenets in relation to the relocation scheme and its limited application within the field of EU asylum law. On the other hand, it provides an interpretative account of the currently used models in contextualizing the distributive scheme. What constitutes evidence is an assortment of written, spoken and symbolically articulated social texts (Tsang, 2001). Social texts are anything that carry and bestow meaning within

society: discursive accounts, produced by cultural (i.e., media, television) or scholarly (i.e., journal publications, conference proceedings) outlets; or official data collection systems used by the State. Several data sources are used to examine and theorize the ideological grounding of the current relocation scheme: scholarly bodies of work, for instance those applying different distributive models and those scaling different indicators or those appending different weights to the current indicators; European Commission documents; legal judgments; newspapers/media articles on the topic; Eurostat and UNHCR figures; state-conducted evaluation reports on the relocation scheme; annual population surveys; public speeches of politicians; texts produced by non-profit and corporate organizations that have engaged with the topic. The selection of data was limited to accounts directly related to the development of the arguments and directly related to the object of analysis. Multiple data sources do not weaken in any sense the analysis (Yin, 1984). "Each data source is one piece of the "puzzle" (Baxter & Jack, 2008, p. 554) and the multiplicity of various data sources contributes to the researcher's understanding of the whole phenomenon. This method generally follows the Foucauldian-inspired dossier approach (Foucault, 1975), where different discursive materials are enmeshed as data sources. Taken together, these might not constitute a uniformly defined field of data, however, each of them, individually, pertain to, and covey information about the subject matter. This method has no claims to objectivity. As with any interpretative accounts in theory formation, there is a subjective modus operandi at play in framing the argumentative positions.

What Does the Relocation System Entail?

The European Commission invoked the provisional relocation system on the basis of two procedural decisions. The first decision, drafted on 15th September 2015, intended to transfer, on a 60/40 ratio, 40,000 people from Italy and Greece. The second decision, adopted after the opening of the Western Balkan route, on September 22nd 2015, added a new goal of 120,000 people: 15,600 from Italy, 50,400 from Greece and 54,000 from Hungary (European Commission, 2015a; European Commission, 2015b; European Commission, 2015c). A distribution key was calculated to apportion numbers between the 28 Member States. Indicators were weighed to account for the capacity to accommodate asylum claimants and to equalize the share of relocation transfers between the EU states. Economic and demographic criteria were primarily considered: GDP, population size, unemployment rate, and past numbers of asylum seekers applications. According to the EU Parliament, the choice of the indicators was studied thoroughly (although public accounts concerning the results of such studies are omitted from official communication). Variances in weighed proportions were not seen as impacting the numbers allotted to each Member State, despite previous work which concluded that modifications in the type and the weight of indicators are bound to create noticeable differences in the number of transferred persons (Thielemann, Williams & Boswell, 2010). Suggestions for the inclusion of territorial size and population density were not operationalized into the equalizing scheme (European Parliament, 2015). The 40%-40%-10%-10% indicators (i.e., GDP accounting for 40%, population size for 40%, unemployment rate for 10% and the past numbers of asylum applications for 10%) were considered the most suitable to equalize the share of inter-state responsibility in relation to the transferring of persons in need of international protection within the EU.

The decisions were to be provisionally applied over the next two years (between September 25th 2015 and September 26th 2017) to asylum seekers that entered the EU after March 24th 2015 (CJEU, 2017). Beneficiaries had to represent asylum claimants, hence people already identified, fingerprinted and registered within the EURODAC- the EU asylum fingerprint database (European Parliament, 2015). Despite references to the importance of individual consent on relocation (European Parliament, 2015), applicants did not have the right to choose their preferred Member State. Numbers were decided beforehand and asylum seekers did not have a say in opting for one state or another.

The relocation plan was made mandatory for all EU Members. Each state would receive 6000 Euros per every relocated person (European Parliament, 2015). The compulsory requirement was deemed necessary since former voluntary efforts were unsuccessful. EUREMA, the Maltese pilot

project, which intended to relocate beneficiaries of international protection from Malta to other EU states in two phases, between 2009 and 2013, showed low uptake (European Parliament, 2015). Very few states offered to participate, about ten states in the first phase and eleven in the second phase. Out of those participating, few states pledged numbers and many failed to follow with their pledged commitments (European Asylum Support Office, 2012; Moraga & Rapoport, 2015); 255 pledges were launched in the first phase, with 227 numbers transferred (European Asylum Support Office, 2012); 356 pledges were launched in the second phase, with 252 relocated numbers (Camilleri, 2012). By 2015, phase two was still incomplete (Law Clinic Malta, 2015). EUREMA's low uptake was attributed to its voluntary nature.

It is important to note that relocation is different from resettlement. Resettlement applies to the transfer of non-EU or stateless persons in need of international protection to a EU state. It intends to transfer people located outside the territorial boundaries of the EU- for example, those located in the Arab countries or Turkey. Relocation applies to the transfer of persons already claiming asylum in Europe, hence to the transfer of people *physically located* within a EU state to another Member State (European Commission, 2017). Relocation was seen to counter some of the negative effects of the Dublin agreement [3]. Through sharing rather than assigning responsibility, the relocation scheme was considered much more equitable than the Dublin regulation.

The 2015 relocation process was mostly unsuccessful. Many states failed to abide by legally mandated commitments. In July 2016, a year after the two decisions, 3,056 persons were transferred from the front-line states (European Commission, 2016). While this figure rose to 11,966 by February 2017 (Guild, Costello and Moreno-Lax 2017), it was still below the projected numbers. It was within the last year that relocation figures have seen a significant uptake. As of September 2017, a total of 44,374 numbers were officially pledged and a large part of these pledges materialized in actual relocations: 8,839 persons were transferred from Italy and 19,740 from Greece (European Council, 2017). As of January 2018, 11,692 were relocated from Italy and 21,711 from Greece (European Council, 2018). The EU' Commission stopped the mandatory relocation scheme at the end of its provisional time-frame (Barigazzi, 2017). UNHCR urged the EU to extend the arrangement at least until the Dublin agreement would be reformed (UNHCR, 2017), however, the Commission seemed unwilling to extend the program after its two-year terminal date (Barigazzi, 2017).

Frictions amongst the Member States

What appeared as a relatively simple and straight-forward scheme fueled considerable political turmoil. Ideological interpretations of what solidarity means, of what shared responsibility entails, and what constitutes a fair share of responsibility, led to frictions amongst the Member States. Spain and Germany initially contested the quota agreements (Bărbulescu, 2016) while Belgium, Finland, Netherlands, Poland, Sweden and the UK were supportive of resettlement efforts (Vanheule, van Selm & Boswell, 2011). Hungary, Romania and the Slovak Republic voted against the relocation scheme. Finland abstained. Those rejecting the relocation decisions advanced varied sociopolitical arguments on the matter. France, Germany and Spain argued that they were already taking part in 'burden-sharing' (Bărbulescu, 2016). The Czech Republic referred to the lack of consensus amongst the Member States and expressed concerns related to refugees' preferences on relocation. Slovakia invoked the need for voluntary participation in the scheme. Romania contested the relocation mechanism for merely addressing the symptom of the problem while neglecting the structural causes weighing on the matter, such as states' reception ability and their capacity to integrate migrants (CJEU, 2017). Hungary's statement was centered on controlling external borders. Hungary refused the

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[3]   To counter the pressure of disproportionate entries into the Mediterranean states of Italy and Greece, the European Commission envisioned the relocation process as a corrective allocation mechanism for the Member States confronted with a heavy number of asylum applications (European Commission, 2018a).

categorization of a front-line state and declined the beneficiary status assigned by the EU. Poland pledged 100 places, yet it failed to relocate any numbers. Austria pledged 50 places and relocated fifteen people from Italy (European Council, 2017). Austria was granted a 30% quota suspension, due to its influx of entries that totaled a 230% increase between November 2014 to November 2015. Austria made no additional efforts to relocate the remaining 70% of its commitment (Guild, Costello and Moreno-Lax 2017).

By December 2015, matters were brought to the European Court. Hungary and Slovakia launched two separate claims at the CJEU, C-647/15 and C-643/15, to dispute the legal validity of the decisions. The legally foreseen commitment was of 902 people for Slovakia and 1,294 people for Hungary. Slovakia launched 60 pledges and relocated sixteen people (from Greece). Hungary declined to pledge any numbers (European Council, 2017). Hungary and Slovakia's claims, themselves framed around procedural issues,[4] were masking these states' political unwillingness to accommodate asylum seekers (Bejan, 2017a). Hungary considered its rebuttal from the beneficiary status as indicative of responsibility-sharing. By refusing to benefit from the relocation scheme, the numbers to be transferred from Hungary will no longer have to be accounted for. Proclaiming itself as the official guardian of Europe, Hungary focused its efforts on "protecting the citizens of Europe from the flood of illegal migrants" (Deutsche Welle, 2017) and fortifying its Serbian and Croatian borders (Al Jazeera, 2016; Deutsche Welle, 2017). In July 2017, Advocate General Yves Bot issued a dissenting legal pronouncement that dismissed Hungary's and Slovakia's claims (CJEU, 2017).

These conflicts brought into play latent East-West divides. Cold War reminiscences have not been erased with Gorbachev's *Perestroika* nor with the systematic fall of the Soviet regime. Accompanying analyses, however, have been mainly centered on national explanations for states' refusal to implement the relocation decisions. Western Europe succumbed to ideological clichés that identified the Eastern, post-socialist countries, as melting pots of racist and xenophobic politics: "culturally backwards, liberally underdeveloped, and having low tolerance levels in regards to cultural and religious diversity" (Bejan, 2017a), even if no empirical research sustains the hypothesis that the East is more culturally intolerant than the West.

Less consideration, however, was paid to the structural, unequitable differences existent within the Union and to the already structured socio-political referential frames inherited from differentially structured state-positionalities. Assuming that the Eastern States regard themselves as unequal decision-making players at the EU table, they might show reluctance in equally sharing responsibility for relocation (Bejan, 2017c). Assuming that the Northern states would constitute the primary option for asylum seekers if their preferences were considered, the relocation scheme could tacitly disburden many of the wealthier, Northern countries. This paper hypothesizes that Member States' political reaction was the result of different understandings of the principle of solidarity and the fair sharing of responsibility. What the EU deems equal, equitable, and overall fair for all, does not practically translate into equal, equitable and fair for all. Building on previous work, which reasoned that ambiguous definitions of equality induce unclear interpretations of responsibility-sharing efforts (Bejan, 2016; Bejan, 2017a; Bejan, 2017c), this paper proceeds by discussing considerations of the idea of solidarity in relation to understandings of shared responsibility.

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[4] Examples of procedural issues brought into discussion by Hungary and Slovakia included the two-years frame as elongating provisional understandings of time; the absence of an unanimity vote on the decisions; the legislative inadequacy of Article 78(3) of the TFEU in empowering the Council to adopt the decisions; the lack of national parliamentary veto on the matter; or the foreseeable influx of irregular entries within the front-line states (Bejan, 2017a).

Which Version of Solidarity?

In evaluating the relocation scheme as a shared solidarity effort, it is necessary to examine what is meant by solidarity, what are the goals to be achieved through shared solidarity, and what version of solidarity is reasoned as desirable.

Oxford Dictionary (2018) defines solidarity as an agreement of mutual support among (a group of) individuals with common interests. It identifies the term to originate from the mid 19th century French *solidarité*. The term, indeed, gained political meaning with the French revolution of 1789 (Habermas, 2015). The notion of solidarity is variedly applied to fundamental rights, market freedoms, citizenship and rules of economic competition across varied EU policy fields. Broadly speaking, solidarity within EU refers to the transition from national to European citizenry, to what Jürgen Habermas called the "expansion of the We-perspective" (Habermas, 2015, p.10). This transition implies the abandonment of national sovereignty in favour of a supranational community that overcomes national particularisms (Habermas, 2015) through mutual trust, joint cooperation and redistributive commitments between the Member States, with the goal of satisfying not only the Union's operative objectives but also the betterment of the participating states (Vanheule, van Selm & Boswell, 2011). Importing the Hegelian reasoning that presupposes that shared universals need to be socially recognized (Conklin, 2008), Habermas (2015) distinguishes between moral and legal types of solidarity. Implementing solidarity presupposes a legalized context of the political life. Solidarity surpasses its moral grounds if it gets legally applied (Habermas, 2015). For instance, a community might agree on moral grounds with having universal health care for all (as an expression of mutual solidarity); however, if this mutual support is unlegislated, the provision of free health services to all will not be applied as the manifestation of solidarity as such within the respective community.

Solidarity gets politically expressed through legal instantiation and is applied in conjunction with viewpoints of distributive justice. The idea was first introduced in EU legislation in the 1970s in relation to interventionist policies within the iron and steel industries (Barnard, 2010). Multifarious aspects of the principle of solidarity nowadays subsist between generations, between Member States and between people according to Article 3 of the TEU (Barnard, 2010). In regards to migration, the *principle of solidarity* and *fair sharing of responsibility* was first penned within Article 80 of the TFEU. The idea of equally balancing asylum efforts between Member States has been for long floating around within the EU policy realm: first in 1994 with Germany's proposition of a refugee-distributive quota weighed on GDP, size of the population and territorial indicators; then with Tampere (1999) and Hague (2004) dialogues, where ideas of solidarity were envisioned to express fair sharing of responsibility (Vanheule, van Selm & Boswell, 2011).

TFEU vaguely outlines how inter-state responsibility sharing should look in the area of immigration and asylum. For instance, a recent study conducted by the European Parliament's Policy Department on the application of Article 80 to issues of migration, generally defines solidarity in a moral manner, taken as the ethical basis for guiding responsibility-sharing between Member States. Solidarity is understood to reflect a moral obligation, to relieve the states facing disproportionate entries of the associated financial, administrative and socio-political costs (Vanheule, van Selm & Boswell, 2011).

Interpretations of solidarity seem overlaid on a twofold cause and effect rationalization within the field of asylum policy. On the one hand, the EU addresses the root causes of the refugee crisis. Paradoxically, these are taken to represent border-crossings while the role of geo-political sources (i.e., wars, poverty) in producing the crisis is somewhat disregarded. On the other hand, the EU actively targets the effects of mass displacement. These are taken to represent the flows of refugee entries within the Union (Vanheule, van Selm & Boswell, 2011). Solidarity also means to share responsibility in border control as well as in relation to asylum protection (Bărbulescu, 2016). The consequential result of this binary logic is the appropriation of the solidarity idea to address both the

causes and effects of irregular migration. The solidarity provision then gets applied to wide-ranging, miscellaneous efforts, from border-defense to refugee-integration schemes.

A loosely defined idea of solidarity means that the concept can take the form of just about anything and everything. The idea of solidarity gets legislated without a shared understanding of what solidarity means. Moral interpretations construct the concept subjectively. What is lacking, however, is what Hegel termed the objective relation of social recognition over solidarity as a shared universal (Conklin, 2008). If understandings of solidarity provisions accompany matters of border control, it is not surprising that Hungary, a state where a right-wing political fraction constitutes a significant electoral presence[5], would interpret the EU's outlook on solidarity as referring strictly to increased territorial controls and the raising up of fences. Nor that Slovakia would legally dispute that relocation fails to address the 'causes' of the current migration crisis (CJEU, 2017). The EU denounced the border defense developments instigated by Hungary, yet Hungary's rhetoric is congruent with EU's juxtaposition of the crisis to ideas about fleeting borders: refugees' entry on the Mediterranean shores has become an issue of perceived lack of territorial control. In response to the CJEU claims, Viktor Orban's Chief of Staff, Janos Lazar, declared that[6]:

> "If we talk about European solidarity, then we must also discuss the protection of borders. Solidarity must be applicable there, too. That burden must also be shared".

The principle of solidarity is further operationalized within the EU asylum law on *justice-based* and *outcome-based* criteria (Vanheule, van Selm & Boswell, 2011). A justice-based approach is generally thought to use indicators to account (hence to equalize) for state specific circumstances: GDP, size of the population, etc. The intention is to bring all Member States to an equal playing field as it relates to responsibility sharing. An outcome based approach, addresses, in return, the consequences of reception and integration for asylum seekers. Since outcome-based measures were deemed too complex to quantify, the EU designed the relocation scheme to solely take justice measures into account. The justice-based approach acknowledges that Member States are unequal, however, it assumes that their responsibility on the matter should be *equally shared*. Mutual support, as the looked-for value within the EU community (Vanheule, van Selm & Boswell, 2011) grounds a so-called justice-orientated equalization of responsibility. Sharing of responsibility becomes about expressing solidarity.

Problematizing the Norms of Fairness Grounding the Principle of Solidarity

A clear definition of the idea of solidarity is missing from the official EU documents. Interpretations of the solidarity provision seem to relate to border-defense as well as to refugees-settlement schemes. Solidarity goals are loosely defined, either grounded within a justice-based or outcome-based modus operandi. Without a tangible definition of what solidarity means, the idea is synonymized with the manifestation of a *fairly distributive mechanism*, of an equitable and equally distributing responsibility-sharing scheme. Yet this logic assumes that the Member States have an equal responsibility on the matter and that equalizing their share of responsibility is the most equitable avenue to ground inter-state redistributive arrangements in adjusting for the disproportionate inflow of protection seekers. Two philosophical claims weigh on this line of reasoning:

First, why equal responsibility? Member States are unequal. EU is neither an equally positioning nor an equally positioned body. The Schengen agreement, strictly available to some but not the others, and the introduction of the Euro currency within the wealthier states, already created "a Union of different speeds" (Habermas, 2015, p.13). Member States are differentially situated within

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[5]   Jobbik won 20.89% of the electorate in the 2014 elections (Paterson, 2014).

[6]   As reported by Deutsche Welle (2017).

the Union, not only in terms of geography, economics and demographics[7], but also on various conjectural circumstances, in relation to political power, migrant integration schemes, national citizenship regimes and socio-political dimensions.

Take the example of political power. *A priori* procedural clauses exempt participation in the relocation scheme for certain Member States. Under the Lisbon Treaty, Ireland, the UK and Denmark have the right to *opt-out* or *opt-in* on the matter[8]. Ireland exercised its *opt-in* right to pledge 1,152 numbers and to subsequently relocate 552 people (Guild, Costello and Moreno-Lax 2017). The UK did not, despite being one of the most multicultural nations in Europe (Alba & Foner, 2015) and despite the fact that, over the time, the UK had the second highest GDP in the EU (Eurostat, 2016). The UK pledged to accommodate 20,000 refugees for the next five years (Dearden 2016), solely through the resettlement stream (Nardelli & Arnett, 2015). The right to *opt-in* and *opt-out*, or what Arendt (1970) termed the *right to have rights*, does not equally belong to all. Not all EU Member States could have asked for such privileges. Different levels of presumed rights, responsibilities and state obligations in relation to issues of irregular migration have been unequally distributed within EU from the formation of the Union. Many of the wealthier states have in fact been exempted from carrying a level of responsibility that would match their ability to accommodate asylum seekers.

Asymmetrical models of immigrant integration additionally subsist between the EU states. Sweden and Germany promote a somewhat multicultural model of migrant integration[9], while France, for example, endorses an assimilationist standard, where migrants are expected to become French in order to claim inclusion into the nation (Alba & Foner, 2015). Think also in terms of discrimination. Values on the migrant integration policy index, which measures political participation and access without discrimination to education, health care services, labour market mobility and citizenship acquisition, are widely varied within the EU: from Belgium (67), Germany (61), Netherlands (60), to France (54) and Austria (50), and down to Bulgaria (42), Poland (41) and Slovakia (37) (Huddleston, Bilgili, Joki & Zvezda, 2015).

Citizenship regimes constitute additional parameters of differentiation within EU. Western Europe moved from *jus sanguinis*[10] to *jus soli*[11] regimes of granting citizenship, though it should be noted that territorially-based citizenship models vary in their conditionality. Germany provides *jus soli* citizenship only for the second generation and this on the condition that at least one parent lived in Germany for a minimum of eight years (Alba & Foner, 2015). Foreign-born applicants need to renounce their own nationality to acquire German citizenship. In France and the Netherlands, unconditional citizenship gets granted only for the third generation or for those claimants with residency from birth (Alba & Foner, 2015).

A two-tier economic system also divides the wealthy Western European states from their poor Eastern neighbours. The indicators selected for the relocation scheme do not reflect states' full monetary capacities to contribute to relocation. Former work problematizing the EU's relocation quota showed the indicators to be proportional in application, yet flat in impact, binding state commitments towards the less-wealthier nations (Bejan, 2016; Bejan, 2017c). Greater relocation numbers were

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[7]   The very dimensions considered by the EU in equalizing the share of inter-state responsibility.

[8]   An *opt-in* implies the possibility of choosing contribution (i.e., Ireland and the UK). An *opt-out* implies that the state (i.e., Denmark) is not bound at all by any of the European Commission rules on migration (European Commission 2015a).

[9]   The make-up of so-called multicultural societies is open for contestation. Discrepancies in integration outcomes between the native and the immigrant populations on various societal dimensions, such as the labour market, housing, education, etc. had been for long noted within the literature. One can easily think of the restrictive citizenship regime within Germany (Alba & Foner, 2015) or the lower employment rates for internationally trained professionals within Canada (Bejan, 2011; Bejan, 2012).

[10] Citizenship conditioned on blood-lines, inherited from parents.

[11] Citizenship conditioned on territorial birth.

indeed apportioned to Germany and France, countries with the highest GDP contribution to the EU budget[12]. However, these numbers were downwardly skewed once the demographic indicators were added[13] into the equation. Czech Republic turned out with a commitment of 2,691 people in comparison with Austria, for example, bound to relocate 1,953 people. Yet Czech Republic's GDP constitutes 1.2% of the total EU GDP, while Austria's sits at 2.4% (Eurostat, 2016). Romania was assigned a commitment of 4,180 persons, although its share of the EU GDP constitutes a mere 1%, in comparison with Sweden, for example, which was allotted 3,766 people and whose GDP constitutes a 3.1% of the EU's GDP. Claims that the newer states' economies (i.e., Romania, Bulgaria) 'outperform'[14] those of older EU countries are disputable. The Eastern states rank the lowest in the Union in terms of poverty and lower wages, with a living standard below most other EU states (Bejan, Iorga-Curpan & Amza, 2017). Eurostat data on minimum wage levels indicates that most Eastern states, including Bulgaria, Lithuania, Romania, Latvia, Hungary, Croatia, the Czech Republic and Slovakia, have national minimum wages lower than 500 Euros per month[15]. The lowest is Bulgaria with 261 Euros per month (Eurostat, 2018).

The current weighing scheme equalizes starting points. It brings Member States on equal footing in terms of contributing to the relocation. Yet equal starting points do not guarantee a proportional distribution of responsibility in relation to a state's capacity to relocate people. Such capacity depends on many of the aforementioned characteristics currently neglected for within the relocation scheme. *Proportionality requires equality of results/outcomes and not equality of starting points*. Deeper inter-state differentiations should be accounted for in leveling out states' share of responsibility and not just in equalizing numeric contributions. In countries strongly invested in multiculturalism, with robust immigrant integration schemes and resilient care provision mechanisms, where immigrants can reunite with their families and easily become citizens, where ideas of anti-discrimination and equality are legislated, where there is adequate access to the labour market and wide availability of public services, asylum seekers would be more likely to participate in the fabric of the host society. Comparable societies are better equipped to accommodate migrants than countries with greater demographics yet lacking such integrative schemes. In view of the differential aspects existent amongst the EU Member States, it might be impractical to apply a mathematically equalized formula to share responsibility, since an equally weighed quota would not equitably account for these very same structural differentiations. Adjusting for structured circumstances (i.e., GDP) and not for the structuring structures that created the differentially structured circumstances (i.e., the power relations within the EU) equalizes the share of responsibility, yet what is needed is a proportional rather than an equalizing system for equitably leveling out the share.

Second, why deem equal responsibility as fair? Ideas of fairness tend to refer universally to beliefs about equity across economic, cultural or institutional axes in society. Take the example of the EU budget. Designed to return higher payments in allocated expenditures and redistribution measures to the countries with lower income per capita (Pasimeni & Riso, 2017), the EU's budget follows a proportional distributive logic (besides queries related to its actual redistributive impact, which are beyond the scope of this paper), reflective of the application of solidarity values. Since asymmetrical relations subsist between the Member States, the application of solidarity aims to level out the existent inequalities in asylum policies (Küçük, 2016). Yet beliefs about what is equitable or inequitable, equal or unequal are not shared universally. Take as example the fairness ideals drawn from taxation policy.

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[12] In 2016, Germany's GDP accounted for 21.1% of the entire EU's GDP; France's GDP accounted for 15% of the entire EU's GDP (Eurostat, 2016).

[13] Population to weigh 40%.

[14] Romania, for instance, was catalogued to economically outperform any other country within the EU for the last years, with a GDP growth of 6.7% for 2017, 4.8% for 2016 and a projected growth of 4.5% for 2018 and respectively, 4.0% for 2019 (European Commission, 2018 b).

[15] For the month of January 2018.

They emphasize that an evenhanded income tax should be proportionally, hence *unequally* overlaid on one's ability to pay (Fausto, 2008). Fairness is bi-dimensionally understood within taxation: horizontally and vertically (Hansford & McKerchar, 2010). Horizontal equity refers to an equal distribution between those deemed the same, and an unequal distribution between those deemed different. Vertical equity refers to a differentiating sharing mechanism, proportionally adjusted for *different degrees* of asymmetry. The contribution *share* would be proportionally leveled and not only the contribution amount. Take the Road Tax in Italy as example. Those owning an automobile pay a tax for using the road, which is differentiated, in turn, by the type of vehicle used (Agenzia delle Entrate, 2017). Different parameters are considered when calculating the tax rate for each automobile category, such as motor capacity, engine power in kilowatts, etc. The tax rate varies in accordance with different types of vehicles (i.e., moped, van, etc.). Those with the *same* motor capacities pay the *same* tax percentage. Those with *different* motor capacities pay *different* tax percentages. The Italian Road Tax uses the principle of horizontal equity, by applying an *equal categorical leveling* to achieve taxable results. It treats car owners the same when their situations are identical, when their automobiles are categorically labeled as the same. If two people own a moped, both of them will pay the exact amount in taxes. If two people own a van, both of them will pay an equivalent amount of tax, although this will be higher than those paying the moped tax. For the sake of the argument, if this tax was to follow the principle of vertical equity, an *unequal /proportional leveling* will be applied to achieve fair (taxable) results. Starting from the assumption that those purchasing a van are better off financially in society, since vans cost more than mopeds, the idea of vertical equity would imply that contributions from those with a van should constitute a higher *share* of the automobile tax. Or, if assuming that urban drivers are wealthier than rural drivers, tax percentages would be differentiated not only by the type of the car operated but also according to the registry of the car, hence different road taxes would be calculated within urban and respectively rural areas.

Similarly, take the example of municipal property taxes in Toronto, Ontario, Canada. Different rates apply to different property types, according to their assessed values (City of Toronto, 2018). Residential properties are taxed at the rate of 0.70% of the property's assessed value, multi-residential properties at the 1.72% rate, commercial properties at the 2.76% rate, and so on and so forth. Indicative of the horizontal idea of fairness, an *equal* rate applies *within* same categories and *unequal* rates apply *between* different property categories. Vertical calculations, however, will additionally adjust these rates to residents' income levels, meaning that *tax-levels will be differentiated* even for those *within the same category*. Minus the idea of vertical equity, municipal tax rates in Toronto are, more or less, regressive although they apply an equalizing scheme to bring payments on equal footing in relation to properties' assessed values.

In bridging these examples to the field of migration management you can easily take as an example the funding administered through the ERF. The distribution of ERF funds follows a horizontal logic, since it matches the funding supply to the trends in asylum applications across the Member States (European Commission, 2018c). Funding gets dispersed to each state based on *same* measures, according to states' reception infrastructure, legal and social assistance, language acquisition/language training, needs of asylum seekers, etc. Vertical equity would imply, for example, that countries with strong asylum systems should benefit from lower level of support (i.e., Germany, Sweden) versus the states with weak (i.e., Greece) or newly established asylum systems (i.e., Romania or Bulgaria).

These examples were used to show that interpretations of fairness are not universally understood. Horizontal or vertical applications of fairness lead to different distributive systems and result in different distributive outcomes, proportionally or equally shared. The current EU's relocation system follows a horizontal logic in sharing responsibility. Applying a vertical logic would imply that proportional rather than equal distributive outcomes are sought out. To establish a proportional relocation system, a leveled, non-equalizing arrangement will have to further differentiate between those deemed initially the same, by accounting for different indicators within the equation. Fairness

cannot be understood unanimously to mean one and the same thing nor to be universally applied to different things when aiming to achieve equitable results.

Differing Egalitarianism

Difference rather than sameness could be the equitable norm of fairness in addressing issues of shared responsibility amongst unequal, hence different EU Member States. Based on the principled norm of vertical equity, this paper proposes the notion of *differing egalitarianism* to guide the weighing of the selected indicators for calculating the distributive quota for relocation. Bearing in mind that Member States are unequal, there needs to be an unequal (i.e., differing) way of equitably equalizing the share of responsibility (i.e., egalitarianism). A shift towards the idea of differing egalitarianism would imply, for instance, an adjustment of the current measurement: for the wealthier states, the economic indicators could weigh higher than for the economically disadvantaged nations. This does not imply, however, that the current indicators are the most suitable for the relocation scheme, where population is taken to reflect the capacity of a state to absorb people, the GDP to reflect the economic capability of a state, the past numbers of asylum seekers as indicative of a state's ability to absorb refugees, while the unemployment rate as suggestive of the state' capacity to integrate refugees (Carlsen, 2017). In practice, however, these measures are hardly reflective of states' absorption capacities. Numbers, as reflected by the population comprised in a territorial state, say little about the attitudinal outlook of national ethnics towards foreigners. Within states with strong anti-immigrant sentiments it is irrelevant that numeric population is high. Numeric values add little to the experiences of integration if refugees are unwanted by nationals from the very outset. GDP, as representative for wealth is not the most appropriate measure to ensure the economic outlook of a state in absolute terms. The Genuine Progress Indicator (GPI), which controls for income inequality and environmental degradation, the Genuine Savings (GE) indicator, which considers levels of savings after human capital and governmental expenditures, the GDP Purchasing Power Parity (PPP), which takes into account population living costs, or the GDP per working hours, which divides national income by the number of hours worked within a country, could constitute better tailored measures in lieu of the simple GDP (Bejan, 2016; Costanza, Hart, Talberth & Posner 2009; Lightman 2003). The numbers of already settled refugees are just a hidden measure punishing the states that were unable to settle people, without thoroughly contextualizing the conditions that pushed some states to settle lower numbers compared to the others. The past number of asylum applications is just a neoliberal, meritocracy measure, which should perhaps have no place in systems of equalizing fairness. Taking the unemployment rate as solely representative of integration reduces refugees' inclusion to the labour market dimension. The literature, however, has for long shown that processes of integration and inclusion need to also account for socio-cultural and political dimensions, such as participation in educational and cultural institutions, the existence of social and neighborhood networks, adherence to national values, political and electoral representation, as well as anything indicative of reducing the differential life chances between the national majority and minorities (Alba & Foner, 2015; Codini & D'Odorico, 2014). Generally speaking, one is integrated once one belongs to the nation (Alba & Foner, 2015).

The scaling of the chosen indicators prompts to additional concerns. How can the population size count the same with a state's material wealth as measured by the GDP? Moreover, how and why does the unemployment rate solely account for ten percent? It is common knowledge that refugees struggle financially, hence their preference is towards the states with higher employment prospects. This is the reason why many refugees do not want to remain in Greece for example, since the country has high unemployment levels and did not recover from the 2008 economic crisis. Labour market participation is an important issue for the refugees, hence states' rate of unemployment should count more within

distributive schemes. Measures that gauge political climates, parliamentary party-structures[16], as well as degrees of immigrant integration[17], should additionally be included since they constitute indicators of successful settling in the host country. Carlsen (2017) has argued that the Fragile State Index, which indicates a state's attitude towards migrants, is one of the most accurate measures of refugee integration.

The principle of *differing egalitarianism* runs against former scholarly efforts that recommended the concept of *egalitarian equity* in the development of an inter-state refugee burden index. Mathias Czaika's (2005) operationalized the idea of egalitarian equity by equally scaling financial, demographic and geographic indicators. While these dimensions adequately account for inter-state differentiation, they end up homogenizing such differentiations once they are balanced on equal, rather than a proportional weighing scale.

To advance an unequal yet equitable distributive relocation arrangement, *three options* are proposed below[18], each centered on GDP as a primary measure[19]:

1. Apportion a two-tier system of shared responsibility within the EU, a system that applies vertical equity *in-between* Western and Eastern States. Economic indicators would be calculated to weigh greater for the Western countries than for their Eastern counterparts. For example, the GDP measure might count towards 60% of the weighed quota for the Western countries and up to 40% for the Eastern Member States. States would contribute different percentiles of their indicators towards their share within the relocation scheme.

2. Divide the Member States by GDP quintiles and apply unequal/proportional weighing rates *in-between* differing quintiles. This is a similar logic to the one used within the field of progressive taxation, where those with higher incomes pay a *larger share* of their income in taxes. In this case, those within the highest GDP quintile will shoulder a greater responsibility for relocation; their GDP levels would count towards a higher proportion of relocation commitments compared to the states with lower GDP. For instance, states with the GDP in nominal dollars over two billions (i.e., Germany and France) would be placed within the highest, fifth quintile; those with the nominal GDP above one million, within the fourth quintile (i.e., Spain); those with nominal GDP dollars between 500k and up to a million, within the third quintile (i.e., Sweden, Switzerland and Netherlands); those between 100k and 500k, within the second quintile (i.e., Belgium, Poland, Austria, Norway, Ireland, Denmark, Finland, Portugal, Czech Republic, Romania); those between 50k and 100k, within the first quintile (i.e., Slovak Republic, Bulgaria); and those below 50k would be exempted (i.e., Croatia or Cyprus), not from the relocation scheme, but exempted from having their GDP counted within the distributive quota. Proportions would be differentially divided: those within the fifth quintile would have their GDP indicator count towards 50% of the distributive scheme, those within the forth would have their GDP count towards 40%, and so on and so forth. This system would apply *unequal weights*, as in *unequal proportions* towards an equitable distribution of responsibility within the relocation scheme.

3. Divide the share of Member States' contribution to the EU's GDP. This will yield similar results with the former distribution, since the states with higher nominal GDP dollars would contribute a higher rate to the EU's GDP. Germany is the major contributor to the EU's GDP, with a rate of 21.1%, followed by France at 16%, Spain, 7.5%, Netherlands 4,7%, etc. Overall,

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[16] Countries with strong right wing political factions might be less inclined to commit to relocation. Take Poland as an example.

[17] These could include various settlement and care provision mechanisms, receptions centers, etc.

[18] These are just theoretical illustrations, since research is needed to determine the feasibility of such selections.

[19] Within the narrow context of taking GDP as the main measure to gauge economic wealth.

the Eastern Bloc sits on a 1% average while many of the Mediterranean nations, such as Malta and Croatia are well below 1%.

These examples were used for argumentative purposes. Varied mathematical formulas can achieve add-on equitable results. Clarity is needed in outlining what are the ideas used to define distributive responsibility and how such ideas are interpreted ideologically. Unequal proportioning is not the sole issue balancing the relocation matters, yet it is important to thoroughly consider which valued interpretations are encumbering state obligations. Solidarity requires differentiation in order for the states to fully consent to a relocation system they view as fair. The notion of *differing egalitarianism* can benefit such efforts.

Conclusion

This paper examined the relation between interpretations of the principle of solidarity and dimensions of responsibility-sharing within the EU's relocation scheme. It discussed instances of ideological incongruity in relation to the norms of fairness guiding the application of the relocation scheme and it insisted on some of the resulting inter-state disagreements on the matter. It further showed that the EU relocation system fails to clearly define its tenets vis-à-vis what constitutes a fair approach to responsibility sharing. The paper concluded by proposing the concept of *differing egalitarianism*, in alignment with the principle of *vertical equity*, to guide evenhanded developments within the relocation scheme. Theoretical and empirical assessments need to be conducted before suggesting a pertinent weighing scale to modify the current distribution. This paper presented alternative theoretical arguments, which could impact the implementation of the relocation program through proportionally transferring the allotted numbers among the Member States. If applied, the examples provided above will change the numerical relocation commitments by allocating higher transfers to the rich, Western States and lower transfers to the poorer, Eastern European nations. Even small variations in the weight of the selected indicators seem to create noticeable changes in the results of the distributive key (Thielemann, Williams & Boswell, 2010). In operationalizing this model, the factors for determining equality in future refugee distribution mechanisms should primarily include: strong economic measures and a proportional levelling to apply these measures according to existent political divides within the Union. First, for the wealthier states, the economic indicators should weigh higher than for the economically disadvantaged nations, since national wealth could be highly indicative of a country's capacity to institute strong public services and migrant integration schemes. According to territorial population size, for example, Germany, Sweden and Switzerland host a large number of refugees (Moraga & Rapoport, 2014). However, according to their GDP levels, their share drops much lower. Second, the weight of these indicators should be ranked in accordance to states' political power within the Union, in order to match the differentiated integration of the two-speed Europe.

This paper did not argue that certain indicators are better then others but rather that the choice and the weighing of the indictors should be congruent with a shared understanding of what constitutes distributive fairness, understanding that can only receive universal recognition if there is some clarity vis-à-vis how these notions of solidarity and fairness are defined and how are they aimed to be operationalized in practice. The above-mentioned examples were provided to show that different formulas could be calculated according to different interpretations of these notions. This paper does not recommend a universal distributive mechanism but rather invites towards the development of a collective thinking to juxtapose the selection and the ranking of the indicators to desired interpretations of fairness and solidarity. It is hardly fair that certain countries, only due to their geographical location, are overwhelmed with high influxes of people whom they cannot assist nor integrate. Yet it is equally unfair that refuges do not have a say in the matter, that people are forced to relocate from an inadequate state to one where they will continue to encounter a lack of integration and a low standard of living. It is equally unfair that the countries with strong economic engines (i.e., Germany, France) disproportionally relocate less people according to their GDP levels in comparison with states that are allotted high numbers only because their territorial size (i.e., Romania).

The recommendations provided are limited in scope. They start from the universalized presumption that economic conditions matter most in relation to the settlement and integration of asylum seekers. Czaika's (2015) socio-political fractionalization indicator might be of particular interest in relocation matters, especially that electoral, party ideologies impact states' willingness to assist with relocation efforts. Outcome based integration indicators may be additionally included. Potential dimensions could also comprise states' integration capacity, as well as their ability to provide care services, including education, language training or any other assistance to facilitate the societal integration of migrants (Vanheule, van Selm & Boswell, 2011). Measures of the costs associated with asylum processes, such as legal aid, translation and interpretation, housing costs, as well as states' capabilities of covering these costs might constitute strong indicators if included in the equation. Some countries carry high associated costs; the share of asylum spending in relation to GDP is 1000 times higher in Malta for example (Thielemann, Williams & Boswell, 2010).

The current debate on relocation is limited. Varied interpretations of what fairness constitutes and should constitute in dialogues of shared responsibility are central in designing a distributive scheme that is not just equal but equitable as well. Collective agreement on the norms of fairness guiding such efforts will most likely lead to fewer inter-state frictions and to a much more fruitful cooperation amongst Member States. Although the relocation process was not renewed past its two years provisional time frame, discussions on its nature are important, since any such distributive scheme will likely serve as a baseline for future asylum related shared efforts within the EU. The recent influx of people on the Mediterranean shores might quickly grow into a repeated occurrence. A workable relocation system would better support asylum seekers' settlement and indirectly assist them with service provision, care arrangements and accessing citizenship regimes within the host countries.

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Author contacts:

Raluca Bejan

St. Thomas University

51 Dineen Dr, Fredericton, NB

E3B 5G3

Canada

Email: rbejan@stu.ca