

Global Migration and Local Integration: The European Refugee Crisis

Written by Jörg Dürrschmidt

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JÖRG DÜRRSCHMIDT, MAR 11 2021

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There was a sense of looming crisis when the EU heads of state and government met in Bratislava in September 2016. It was the first summit after the Brexit vote. Finally, the EU leadership had to face up to the organisation's limited ability to develop an effective and sustainable response to the refugee crisis. In the wake of the crisis, cleavages had appeared between member states in the East and the West as well as the North and the South of the Union, discursively focussed around lacking principles of responsibility and burden sharing. Some member states castigated others about their inability to implement agreed responsibilities within the common European immigration and asylum policy. Yet, at the same time, these others complained about the lack of previously agreed material solidarity to help them to do so. A third group suggested to renegotiate the actual type of solidarity requested. As a consequence, the EU summit during this existential crisis conveyed a certain sense of desperation articulated in appeals to 'co-operate or bust!', but without a guiding principle to put general commitments into a working policy. Instead, the term of flexible solidarity made the round. Accordingly, the Bratislava Declaration only vaguely refers to principles of responsibility and solidarity as a recipe to avoid future uncontrolled flows of migrants. Nevertheless, its principles were meant to ensure the safety of EU external borders and to offer a basis for a long-term European migration policy.

Against this background, this chapter draws on general implications of the subsidiarity concept. Due to the paradoxical nature of migration policy, subsidiarity aspects of European asylum and migration policy can be examined along two dimensions: first, by looking at the EU's integrated border management as an illustration of external (or internationalised) subsidiarity between the member states; and second, by highlighting its internal dimension in the case of the Lampedusa refugee disaster in terms of local integration policy. Both examples show that the practice of subsidiarity pushes an otherwise narrow political-institutional construct towards a wider sociological usage.

Locating the Concept

In the migration debate, several commentators recalled subsidiarity as a forgotten concept and a potential key to solve Europe's refugee problem. Following this principle, power and responsibility should be located at those levels of government, where the required resources, political accountability and interest representation can be best established. Thus, distributive justice and economic efficiency desired by ordinary citizens would be observed most effectively. While the subsidiarity principle was deeply enshrined in the Maastricht Treaty of 1992, from today's perspective it might look as 'a road not taken'. On the one hand, leading experts involved in the initial discussions still praise their *Making Sense of Subsidiarity* (Begg et al. 1993) as a useful guiding principle and political tool to address the EU's current governance dilemma. If only EU legislation is properly implemented, i.e. in accordance with the institutional matrix provided by the subsidiarity principle, everything will be fine. Seen from this angle, the key towards a solution of the European refugee crisis rests with finding the right trade-off between centralised and decentralised decision-making creating adequate implementation capacities for the common migration and asylum policy.

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On the other hand, there are observers who doubt that a satisfactory solution to the refugee crisis can be found through a more stringent implementation of subsidiarity alone. In their view, various challenges faced by the EU's immigration and asylum system cannot be addressed by adding a few policy instruments or by providing better organisational and financial support. For them, the refugee crisis is not the cause of EU governance problems but rather their consequence. The disputes about shared border management and common standards in asylum procedures has anything but revealed the structural limitations of EU migration policy and the tools at its disposal. What is needed to regain policy coherence is not an institutional quick fix to a temporary crisis, but a serious change in the dominant policy rationale. Part of a solution must come from the recognition that refugee policies have gotten tangled up with the dynamics of globalisation and international migration. Critical voices refer to an irrevocably broken refugee system that systematically produces the 'survival migrant', while trying to disentangle the human right to take refuge from the right to migrate (Betts and Collier 2017).

Therefore, the flaws in the EU asylum and immigration regime have to be seen as a deficit in global governance. Its driving force is the 'liberal paradox' inherent to any modern, not just European, migration regime (Hollifield 1992). Although domestic stability and welfare protection demand control of state borders with a premium on national sovereignty, the globalised economy together with humanitarian obligations drives the imperative for mobility and the right to migrate. Both the Schengen (free movement within the EU borders) and Dublin (regulating access to the EU) agreements attempt to juggle this paradox in line with the EU's self-image as an area of freedom, security and justice. Indeed, in the context of subsidiarity, they underline the need for a guiding principle as regards intergovernmental burden sharing, responsibility and solidarity; yet, as part of a genuinely new global architecture built around transnational migration, asylum and welfare.

Therefore, it makes sense to differentiate a rather restricted version of the subsidiarity principle from a much broader use of the concept. In the narrow version, it refers to the distribution of responsibilities between institutions and levels of governance. In the wider version, it provides a hierarchical matrix for mobilising and organising the potential of human society. The former alludes to the ongoing search for a compromise between federalists and confederalists, i.e. between those who prefer more centralisation and integration and those who argue for a more decentralised and inter-governmental approach to the European polity. The latter, by contrast, takes a look beyond state institutions to the internally available social capital that can be mobilised by civil society.

Historically, this wider version of subsidiarity is embedded in the social thought of the Roman Catholic Church. There the concept comprises a key formula for the legitimate provision of aid and welfare. Essentially, it proposes that social support should be organised in a way that sustains – but does not absorb – smaller forms of collective organisations. In general, action by smaller social units is preferred, unless larger social units provide a positive benefit that cannot be obtained by the smaller ones (Spicker 1991, 4). Accordingly, there is a fine line separating welcome support from unwanted intervention.

In fact, subsidiarity works with two main guiding principles for social obligation: solidarity as well as constraint; both exercised to maintain agency for the smaller social unit. It follows that the basic idea of subsidiarity structures responsibility and obligation in a way that prefers individual action over action by the community, local policy over national policy, national deliberation over supranational regulation, and so on. Thus, in a sociological definition, it denotes a stratification of the lifeworld in zones of familiarity, trust, and motivation that are built around everyday needs. In this 'organic view of society' (Spicker 1991, 3), subsidiarity champions the decentralised capacity of the lifeworld to organise social intelligence spontaneously and to mobilise social capital within existing social networks and beyond the confines of formal institutions.

This contrasts with the narrow definition as a political principle by which complex states organise the architecture of their governance institutions. Formally, subsidiarity still advocates levels of governance at the smallest possible level of political organisation (guaranteeing self-determination, transparency and loyalty), but in practice it serves to control the level of discreteness granted to supranational bodies. In the EU context, the principle emphasises the relative autonomy of national and sub-national bodies to curb the centralising and strategic ambitions of the European Commission. Arguably, the strengthened role of national parliaments through the 1997 Lisbon Treaty as monitors of compliance and early warning systems even brought the principle into an unhappy alliance with the principle of

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sovereignty (see Spicker 1991, 9).

Initially, the subsidiarity principle was situated in the evolving relationship between nation states and the Union. Gradually, this has been extended to include the local and regional level in a single model for the procedures of interlinked decision-making and divided sovereignty typical for federal political systems (Friesen 2005). Therefore, subsidiarity must be regarded as an intrinsic aspect of multi-level governance (MLG) that has established itself as a dominant analytical framework for networked governance across local, regional, national and European institutions. Accordingly, recent debates on the rescaling of the state (the transformation of socio-spatial relationships in the context of neoliberal globalisation) have further highlighted an increased significance of sub-national units through subsidiarity concerns ensuring political efficiency in multi-level arrangements. As global migration is also part of this rescaling process, respective policy and management issues feature most prominently in this area (Zapata-Barrero and Barker 2014). Moreover, the 'local turn' in the MLG approach as applied to migration and immigration policy has revived the wider understanding of subsidiarity by drawing specifically on the role of non-state actors and civil society (Zapata-Barrero et al. 2017).

A Common Migration and Asylum Policy?

In 2015, the EU Commission's *European Agenda on Migration* stated that 'no member state can effectively address migration alone' and that 'we need a European approach'. In retrospect, this sounds like a repetitive mantra endorsing European integration as an empowerment of traditional state actors. Of course, national governments might gain rather than lose sovereignty (and thus maintain their capacity to rule) by sharing administrative competence and ceding territorial autonomy in the face of complex political issues such as migration. This general capacity of an organisation to transform its own structure and guiding principles to better adapt to a changing environment is referred to as 'governability' (Paquet 2001, 188).

Since its first outline at the Tampere summit of 1999, the European policy on migration and asylum has embraced a 'paradigm of multi-level governance' (Hampshire 2015a, 541). In a minimalist understanding, the EU's architecture consists of three dimensions shaping the governance of this policy area: relations between the European Commission, the European Parliament and the European Council; relations between these institutions and national governments; and finally, relations that link both national governments and supranational institutions with sub-national authorities. Within this set-up, the relations between national governments and supranational EU institutions form the most contested core. While the latter have steadily acquired strategic influence over migration policies, nation states sought to retain decision-making power on crucial aspects of migration policy, such as the right to decide on the actual number of migrants admitted into their territory from outside the Union.

Due to the contested nature of the policy field, the EU Commission has gradually implemented a *Common European Asylum System* (CEAS). The Dublin regulations are the cornerstone of the CEAS stipulating that asylum seekers have their claim assessed in the member state of first entry. This mechanism aims to foreclose 'asylum hopping' in a Union with diverse regional welfare standards, but simultaneously creates a classic 'weakest-link' problem. In recognition of this issue, the EU introduced three asylum directives (the Qualification Directive, the Procedures Directive, and the Reception Condition Directive) which address key questions, such as who is a refugee, how is the quest for asylum properly processed, and what rights should asylum seekers and refugees receive?

Moreover, to enhance harmonisation on asylum policy and to foster practical cooperation as well as interoperability between the national and EU level of governance, a set of EU-based organisations and institutions has emerged. Since 2003, EURODAC has provided a computerised fingerprint database for identifying illegal border crossings and asylum seekers, while EUROSUR, established in 2013, has provided an integrated border surveillance system equipped with smart border technologies, such as video observation, satellite tracking and miniature drones. Two further EU agencies are crucial for providing operational support in border management: In 2011, EASO became active to provide staff training and quality assessment for the implementation of common asylum standards in the member states; and already since 2005, FRONTEX has been operating with steadily increasing budgets as the coordinating agency for the EU's external borders. Its central task is 'integrated border management', best understood as multi-level governance in action. As a strategy, it implies an accumulation of modalities of coercion, although

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without centralising the authority over these modalities. In other words, it softly *Europeanises* border management by installing technology-based cooperation and by trying to induce at the same time a shared organisational culture and common doctrine (Jeandesboz 2015).

At first sight, the multi-level architecture of asylum and migration policy might look like an exemplary manifestation of subsidiarity. Political authority is pooled at the supranational level because it is deemed necessary by the member states which have recognised the limits of unilateral action. However, asylum and migration policy remains an area of shared competence, meaning that national governments retain a final say over issues of access and integration. In its strategic ambition, the EU as the aggregate political unit remains dependent on the parts of which it is constituted. This is most notable when it comes to 'integrated border management'. The governance arrangement does not fundamentally challenge national sovereignty over borders, but reworks the conditions under which the exercise of this sovereignty is practically possible.

Therefore, EU asylum and migration policy illustrates that subsidiarity does not simply amount to governance at the smallest possible level. Instead, and next to divided sovereignty, it also implies solidarity and support between different territorial units and layers of governance. The member states, for example, carry out their specific responsibilities within CEAS as an obligation towards the functioning of the shared European asylum and migration policy. Similarly, prospective member states have to demonstrate their capacity to adapt to and eventually implement the requirements of an integrated border management. In turn, the EU offers financial and operational support to member states carrying the burden of a sudden influx of migrants and asylum-seekers. An EU programme labelled 'solidarity and management of migration flows', running between 2007 and 2013, serves as an illustration how financial aid has been distributed to immigration hot-spots in Greece. Likewise, the creation of rapid intervention teams (RABITs) and asylum support teams by FRONTEX and EASO have offered operational support to particularly challenged member states such as Italy and Bulgaria.

Certainly, this understanding of the common migration and asylum policy held together by the principle of subsidiarity is exceptional for the EU's institutional architecture. Yet, increasingly sober voices can be heard when reviewing the results of almost twenty years of policy making. The assessment ranges from an implementation fatigue and practical 'hibernation' to a growing discrepancy between rhetoric and practice or a looming policy failure. Despite considerable efforts to create a common asylum policy, 'asylum legislation and practices across European states are anything but common' (Hampshire 2015a, 539). There are, for example, considerable differences in recognition rates across member states and the standards for decision-making and reception tend to vary. In fact, already before the climax of the refugee crisis in 2015, one could conclude that EU migration policy 'looked to be running out of steam' (Hampshire 2015a, 543).

From this perspective, subsidiarity appears rather distorted without unfolding its full potential. A weak version of subsidiarity dominates, safeguarding the sovereignty of nation states from strategically minded EU institutions. As a consequence, levels of governance are not taken seriously to transform into graduated relations of mutual responsibility and obligation. Despite formal competence, EU institutions were unable to identify and articulate a general European interest beyond the national interests of the member states. Thus, EU policy is neither complete nor visionary. It is instead one-sided towards elements of control and interested in externalising migration movements. The enabling aspect of immigration remains rudimentary, factually perpetuating an unhappy mix of 'survival migration' towards Europe.

Serious enforcement problems undermine sustainable commitments and encourage opportunistic behaviour by individual member states. The latter is reflected in familiar practices by national authorities simply 'waving through' potential applicants, encouraging secondary movements to neighbouring countries or allowing for lucrative citizenship sales. The operational support given by FRONTEX and EASO is well-meant and sometimes well-staged, but both agencies remain underfunded and understaffed. Most importantly, they do not have direct operational authority over national border services. Finally, the financial assistance offered to overstretched member states was seen by them as little more than token money.

Overall, these developments have undermined the emergence of a sustainable subsidiarity culture long before the

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peak of the latest refugee crisis. At best, it brought to the fore previously latent asymmetries of national interests. Positive notions of subsidiarity working with coordinated actions at various levels of governance based on principles of solidarity and shared responsibility, transformed more or less openly into burden shifting. Frontline member states, in particular Greece and Italy, felt that the initial responsibility with regard to new entries in line with the Dublin agreement quickly turned into an exclusive responsibility to deal with the refugee crisis on behalf of the EU. As the asylum system of these frontline states showed signs of fragility and sub-standard application of existing European legislation, other member states such as Germany and Sweden stepped in on humanitarian grounds. Ironically, through their intervention, Brussels was saved from violating the Geneva Convention on Human Rights, albeit at the price of circumventing its own Dublin convention. Conceptually, this is best captured as an *ad hoc* or make-shift mode of subsidiarity.

The unprecedented numbers of refugees coming to European shores in 2015 have exposed the deficiencies of the EU asylum system. For a technical explanation, one could point to a gap between legislation and implementation that needs closing; or, one could refer to a broader crisis scenario where economic downturn, financial constraints and rising populism have made it difficult for frontline states to keep their asylum system functioning along European standards. Perhaps, one could also mention the rising number of actors involved in complex governance arrangements for this particular policy area. The EU's Eastern enlargement of 2004 and 2007 as well as the growing influence of international organisations such as the International Organisation for Migration (IOM) come to mind.

However, the fundamental underlying issue remains the inequity of the European asylum system (Hampshire 2015a, 547). As it stands, it tries to impose responsibility and solidarity on a historically grown asymmetric landscape of national power and interests. All this without seriously acknowledging European country profiles in terms of geographic location, (post)colonial histories, migration legacies or competing welfare systems and labour markets. In addition, it pushes economically weak member states to the frontline of a controversial policy problem while effectively shielding the more affluent member states. Current showings of financial and operational solidarity cannot hide the fact that the EU has failed to establish an effective regime of mutual obligation. The particular constellation risks undermining subsidiarity concerns in other policy areas as well. Thus, the official discourse around solidarity and responsibility that periodically flares up in official documents seems emblematic for a broken subsidiarity debate.

Europe's Reception Culture: Subsidiarity Meets Hospitality

The Italian island of Lampedusa has become a symbol of a flawed migration and asylum system, unable to rebalance the asymmetric burden it imposes on member states due to the contingencies of geography. On 3 October 2013 more than 360 migrants from Libya died drowning off its coast. The disaster brought the ambivalence of EU policy making to public attention. The moral outrage following the Lampedusa shipwreck led the Italian government to authorise the 'Operation Mare Nostrum' to patrol and safeguard the Mediterranean Sea. It failed, however, to convince its European partners to share the costs of this search and rescue mission estimated at 9.0 million euros per month. Eventually, the national effort was replaced by the Frontex-led operation 'Triton', working with a significantly smaller budget (2.9 million euros per month) based on voluntary contributions and tasked with the gathering of intelligence rather than humanitarian rescue efforts. This shift in emphasis towards surveillance mechanisms in the control of European sea borders has been seen as another indicator of the organised irresponsibility with which the Union approaches its migration crisis.

In this context, it is worth noting that before the disaster Lampedusa was one of the most popular entry points to Europe, and as a consequence, a pioneer in developing a welcoming reception culture. This, also, long before the march of Syrian refugees along the Balkan route brought other countries and their behavioural responses to the fore. Before the switch of media attention, the first boatpeople arriving on the Italian island were met by a local culture of spontaneous hospitality. Yet, this long-established ethos similar to unquestioned help between fishermen became increasingly challenged and 'professionalised' with increasing numbers of arrivals, attempts of political intervention and economic profiteering. Within a few years, locals required special permits to visit reception centres, and refugees felt the need to protest against the impact of political clientelism on their day-to-day lives. A declining fishing industry and dependence on tourism had contributed further to the fragmentation of the local community and rising resentment towards refugees and asylum-seekers (see Friese 2010).

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The case of Lampedusa thus moves the analysis to another dimension of subsidiarity, replacing the linkage between national and supranational governance with an individual-societal or citizen-state nexus. The question here is not how authority is organised and exercised at different levels, but how the primary responsibilities of care and solidarity are organised by the social body. In this sense, subsidiarity refers to the conditions of individual subsistence and community support. This widened understanding of the principle could be described as the 'unbinding' of subsidiarity towards everyday capacities of self-organisation and empowerment.

One such crucial capacity of the everyday is to welcome strangers and to accommodate those in need without immediately enquiring their identity. This anthropological moral imperative of granting temporary asylum could be observed in the voluntary reception culture (*Willkommenskultur*) once prevalent on Lampedusa and evident in cities such as Passau or Malmö more recently. Its cultural roots can be traced back to the widely shared belief that God reveals himself in the beggar or stranger knocking at your door (Friese 2010, 326). Arguably, without being able to draw on this eternal sense of hospitality in the everyday integration of refugees, state actors would have faced an immediate humanitarian catastrophe.

Seen from this angle, state intervention in the realm of self-organised hospitality culture seems undesirable. Yet, next to ethical reasoning, there is also a clear judicial-political argument when it comes to the hosting of refugees and migrants. The latter addresses questions of human rights, citizenship and institutionalised welfare. In practice, it will tend to curtail access to and formalise content of traditional hospitality. While unconditional hospitality is offered instantly by the lifeworld, it has an uneasy relationship with notions of sovereignty, the real-world borders of existing political communities, and institutionalised forms of welfare. Hence, the anthropological view of hospitality would need government legislation that limits state involvement for pre-existing hospitality to be effective. Moreover, if state-centric asylum procedures 'deface individuals' in a cold and technical manner, the spontaneous hospitality of everyday life could offer warmth and compassion instead (Wilson 2010). Understood in this way, subsidiarity would imply a mutually supportive relationship between state institutions and civil society actors for the purpose of an effective protection of refugees.

It is important to note that this link between the state and civil society cannot be confined to a partial inclusion of hospitality ethics into technocratic asylum procedures. Insofar as these procedures offer an entry point towards political citizenship as well as social membership, any respective policy will be tied up with key principles of societal openness and closure. In fact, EU member states have fought hard to retain their position as fundamental structures for individual lives; essentially by tying biographies to their national institutional clusters of education and welfare. In doing so, they organise individual claims and duties via carefully graded modes of social and political citizenship. Not surprisingly, therefore, migrant recognition and integration has crystallised as the one of the most contested policy issues within the Union.

At the same time, it is a truism that the integration of migrants needs to take place within a societal microcosm of localities. It is at this particular territorial level that 'migrants seek full participation in the social, economic, and cultural life of the host community' (Hepburn and Zapata-Barrero 2014, 5). Here, civil society actors yield a considerable amount of power as gatekeepers to everyday participation and belonging. In addition, they are able to shift the emphasis of subsidiarity from notions of efficient service delivery to notions of social coherence and local identity. Then, subsidiarity carries meaning much more in relation to processes of sustainable migrant integration beyond an initial reception culture (*Willkommenskultur*), and would also imply greater sensibility towards the orderly structure of lasting solidarities. The latter follow rules of social closeness and relative distance embedded in the customised everyday practices of sub-national spaces. Accordingly, these cannot be ordained or prescribed from above, but need to emerge from ongoing public deliberation. If robust solidarity for migrant integration is merely administered by higher levels of governance, it is likely to breed resentment within the disadvantaged fragments of the European population. EU citizens living in the region's poorer periphery, for example, might feel tempted to 'fast track' into one of the affluent core economies and follow a pattern first observed among 'survival migrants' (Hann 2015).

Conclusion

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From a sociological perspective, subsidiarity refers to the allocation of responsibility and solidarity at various levels of governance. However, as a consequence of societal globalisation there is an ongoing process similar to the 'unbinding of politics' in the context of migration and asylum policy. Firstly, the 'unbinding of subsidiarity' matters in the EU's external dimension as a negative policy that passes on migration challenges by striking ambivalent deals with regional neighbours. Undoubtedly, EU institutions still have some way to go to develop a genuine global approach in line with their ambition to speak with one voice in the governance of 'survival migration'. Secondly, the 'unbinding of subsidiarity' matters more positively in the EU's internal dimension when recognising the autonomous problem-solving capacity of everyday life. This, for example, has been manifested in the spontaneous hospitality offered to migrants as part of a local reception culture. The neglect of such bottom-up practices in the exercise of mutual responsibility and solidarity would run the serious risk to accept further social fragmentation and individual isolation.

Both cases discussed in this chapter show that subsidiarity is more than just the effective management of several levels of governance. More comprehensively, the concept includes the moral resources a society may or may not mobilise. Therefore, discussing the local as well as global aspects of subsidiarity in a highly contested setting transforms traditional questions of formal decision-making and implementation. As it stands, the European policy on asylum and migration leaves us wondering how we want to live together in the 21st century.

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