

## Agency, Rights, and Security in ‘Migration Blackmail’— A Response to Daniel [Sharp \(2025\)](#)

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In his contribution to the *Journal of Ethics and Social Philosophy*, Daniel Sharp critically examines what he terms ‘migration blackmail’—a phenomenon whereby State A actively facilitates migration towards State B (a ‘target state’) in order to extract concessions (Sharp, 2025). This practice, also known as the ‘instrumentalisation of migrants’, has been on display, inter alia, along the EU’s borders with Belarus, Russia, Turkey and Morocco. It has driven what Moreno-Lax (2024) describes as the ‘crisification’ of EU asylum law and has, as I have argued elsewhere, significantly contributed to the ongoing unravelling of the Common European Asylum System ([Grześkowiak 2024](#)), as affected states have predominantly responded with an outright refusal to apply the relevant legal safeguards of migrants’ rights.

Sharp frames the situation of ‘target states’ as a seeming ethical dilemma, in which two objectives appear to be in tension: the interests of target states in resisting blackmail and the interests of migrants in accessing protection. Achieving the former appears to require pushbacks and border closures, while the latter calls for granting admission and examining asylum claims. In effect, any action that effectively deters blackmail seems to harm migrants, while any action that protects migrants appears to reward blackmail. In resolving this dilemma, Sharp’s key move is to challenge the notion that the only effective way for destination states to resist migration blackmail is to close their borders to ‘instrumentalised’ migrants. Such an approach, he argues, displaces the costs of blackmail onto the victims of instrumentalisation by exposing them to undue harm and is therefore morally impermissible. Instead, he compellingly maintains that affected states possess viable means of mitigating blackmail that do not entail severe incursions into migrants’ rights. Examples include sanctioning the blackmailing state, reducing reliance on externalised border controls, and expanding legal and safe migration channels, thereby diminishing the factors that make ‘instrumentalisation’ an effective strategy. Sharp’s arguments are particularly refreshing and valuable to me as a lawyer working on these issues: when criticising the measures adopted by affected states, I am frequently asked about the alternatives. Sharp’s contribution lends support to, and substantiates, such alternatives. Moreover, I found especially interesting his

argument that some states targeted by 'instrumentalisation' may be considered partially liable to bear the costs of migration blackmail, given that many participate in creating the very conditions that render such blackmail an effective strategy in the first place, in particular by resisting equitable responsibility-sharing, barring routes of regular migration and externalising border controls.

In what follows, I address three issues which, in my view, were either insufficiently explored or somewhat downplayed in Sharp's analysis, and which I would be particularly keen to see integrated more fully into his analytical framework: (1) the agency of migrants subjected to 'instrumentalisation'; (2) the role of law in safeguarding migrants' rights, as well as the consequences of its outright disregard in situations of 'instrumentalisation'; and (3) the question of national security.

### **Migrants are not merely passive victims of 'instrumentalisation'**

It is, of course, true that migrants subjected to instrumentalisation are often effectively used as means to achieve political ends and, moreover, frequently face severe violations of their rights. Along the EU–Belarus border alone, there are credible reports of extreme forms of violence inflicted on migrants by the Belarusian authorities which, on some occasions at least, have arguably reached the threshold of torture ([Greener and Ożyńska, 2025](#)). There are also reports of violence experienced by migrants at the hands of states targeted by this particular 'migration blackmail'. On the Polish side of the border, for example, migrants have reported being subjected to beatings, being set on by dogs or being given water laced with pepper spray (*ibid*). This substantiates Sharp's argument that some states subjected to 'blackmail' not only fail to assist those who are harmed but also directly contribute to that harm.

That said, I believe that the figure of the 'instrumentalised migrant' warrants critical scrutiny. Aleksandra Ancite-Jepifánova ([2025](#)), for example, has demonstrated that branding all those attempting to cross from Belarus into Poland, Lithuania or Latvia as 'instrumentalised' obscures the rich variety of personal trajectories that brought them to this border. Many actively chose this route because it was perceived as safer than other routes to Europe. This again points to the argument noted above that some target states, by effectively barring routes of regular migration (including for asylum-seekers) and externalising border controls, participate in creating the conditions that make 'migration blackmail' an effective strategy in the first place and may therefore be liable to bear its costs. All in all, migrants are not merely passive objects or instruments but active agents navigating constrained and dangerous choices. Reducing them to pawns in a broader geopolitical game risk, in my view, inadvertently reinforcing discourses that seek to objectify them.

## Responses to migration blackmail are not only immoral but also unlawful

This may perhaps be read as an occupational hazard of a lawyer, but I cannot help wondering how the role of law fits into Sharp's analysis. Sharp appears to overlook that a wide array of measures deployed by states in response to migration blackmail are not only morally problematic, but also manifestly unlawful. He writes:

On the one hand, target states have interests in resisting and avoiding blackmail. This seems to require closing borders with the blackmailing state. Anything else means allowing the blackmailer to impose burdens on the target. On the other hand, migrants have significant interests, which are placed in jeopardy by this response. Many migrants have interests in securing access to international protection, and all have interests in avoiding acute vulnerability and harm (Sharp 2025, 297).

This passage frames the situation of both affected states and migrants in terms of *interests*. In the case of migrants, however, these interests also take the form of *human rights* firmly protected under international and EU law: the right to seek asylum, protection from *refoulement*, and the right to be free from torture and other cruel, inhuman or degrading treatment. The two latter rights are widely considered absolute and cannot, under any circumstances, be treated as weighable against states' right to control immigration, let alone mere state interests. In other words, where inhuman treatment would be the consequence of removal or non-admission, from a legal perspective there is no dilemma at all.

The disregard of asylum-seekers' rights by the EU member states that profess a commitment to the rule of law and to human dignity is particularly striking. It undermines the credibility of those same states when they advocate for human rights in other contexts. Explicitly incorporating this legal dimension would, in my view, further strengthen Sharp's argument against denial of access to asylum, pushbacks and border closures.

There are also other ramifications of the rule of law crisis unfolding at Europe's borders that, in my opinion, are particularly capable of fitting neatly into Sharp's analysis. The rule of law benefits all: EU citizens, non-citizen residents, and those seeking asylum in Europe alike. An outright denial of applicable law at Europe's borders, coupled with the apparent acquiescence of institutions tasked with upholding it ([Mitsilegas, 2022](#); [Grześkowiak, 2023](#)), erodes the legitimacy and credibility of law across Europe. As a result, all inhabitants of the EU stand to be worse off. To put it bluntly: if the law ceases to function at the periphery, what grounds do we have to assume it will prevail at the centre? And if institutions charged with enforcing human rights refrain from doing so in the case of migrants for reasons of political convenience, what confidence can we have that they would not similarly turn a blind eye to abuses against citizens when it becomes expedient to do so? This legal dimension of the issue of 'migration blackmail', and the appeal to the interests of broader European societies in upholding the rule of law, would, in my view, make Sharp's argument even more powerful.

## State security is a valid (and legally relevant) concern

Notwithstanding my opposition to the widespread denial of access to rights at Europe's borders, I believe that the issue of state security, at least in certain contexts of migration blackmail, should not be taken lightly. When Sharp refers to the relatively negligible costs that target states would incur by admitting those subjected to instrumentalisation, he appears to downplay the fact that some states currently engaging in migration blackmail—in particular Russia and Belarus—are openly hostile actors that can reasonably be assumed to be contemplating adverse actions against target states and their inhabitants. It is not implausible to suspect that some (likely only a small fraction, but a fraction nonetheless) of those irregularly crossing from Russia and Belarus into the EU might be acting in coordination with those states, to the harm of the target state or the Union more broadly. The consequences of such individuals successfully entering and settling in the EU are difficult to predict and potentially detrimental. National security is, furthermore, a legally relevant ground on which certain restrictions on human rights may be justified under specific conditions. In sum, state security concerns seem to make the dilemma tackled by Sharp even more complex. Therefore, in my view, the state security objection deserves explicit recognition and careful engagement.

To be clear, I do not believe that acknowledging security concerns undermines Sharp's overall conclusions. The fact that a small minority of 'instrumentalised' migrants might pose security risks does not extinguish the protection claims of the vast majority. States that profess a commitment to human rights should therefore distinguish between these categories, rather than subjecting all those labelled as 'instrumentalised' to collective punishment.

In my view, a response that is both humanitarian and security-conscious to a hostile state's orchestration of irregular migrations does not consist in discarding applicable legal procedures (as is usually the case in pushback practices, where migrants are summarily returned without individualised assessments) but rather in strengthening these procedures. By immediately pushing people back, a target state effectively relinquishes the opportunity to conduct meaningful security screening of those concerned. Many will attempt to cross again until they succeed in reaching the target state or moving further into the EU. The establishment of robust procedures—fully compliant with internationally recognised human rights standards yet capable of identifying individuals who may pose genuine security risks—would therefore serve not only humanitarian objectives, but security considerations as well.

I believe Sharp's framework remains incomplete without according due weight to the legitimate security concerns of some states affected by 'migration blackmail', in particular those bordering Russia and Belarus. I would therefore be particularly interested to see how these considerations might be integrated into his analysis.

In conclusion, I wish to reiterate my appreciation for Daniel Sharp's insightful paper and my broad agreement with his conclusions. His article offers a powerful critique of prevailing state responses to the phenomenon of 'instrumentalisation of migrants' and presents ethically sound and practicable alternatives. The issues I have highlighted here — concerning migrants' agency, the legal protection of their interests, and the legitimate security concerns of target states—are intended to deepen and extend the analysis, encouraging further reflection and dialogue.

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## About the “Dilemmas” project

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