

Migration Blackmail in Practice: A Response to Sharp (2025)

By Catherine Woollard

Catherine Woollard is Adjunct Professor of Law at the Brussels School of Governance. Between 2016 and 2025 she worked as Director of the European Council on Refugees and Exiles.

Daniel Sharp offers an original take on a familiar topic – the migration deals that characterise European states’ efforts to minimise the number of refugees they host, and the blackmail that may result. Sharp defines what he terms “migration blackmail” as the threat to “flood” a country with migrants in order to extract concessions. For the targeted state, a dilemma arises: “there is no way to effectively resist blackmail while respecting migrants’ legitimate interests in accessing protection and avoiding harm” (Sharp 2025, 298). Nonetheless, Sharp concludes that the interests of migrants “take precedence over state interests in blackmail avoidance”, which he terms “the priority claim” (ibid, 310).

The originality of the contribution lies in its application of an ethical framework, rather than the more common legal or geopolitical analysis of migration dynamics, and in its efforts to balance the explication of the dilemma posed by migration blackmail with strategies for escaping it or minimising its effects. Given both the lack of compliance with asylum law and European states’ efforts to legalise unethical practices, notably with the EU Pact, exploring the moral dimension becomes important. The distance between legal and moral obligations is growing. The article’s strength also lies in the thorough exploration of the contours of the dilemmas posed by migration blackmail and the interests of the parties involved. As well as the reform of EU law, the issue is at the heart of the highly significant C.O.C.G group of cases pending before the European Court of Human Rights (ECtHR), which will assess legal obligations in situations of “instrumentalisation” of migration.

In this context, six reflections are presented here that variously expand on or question the conceptual approach and the findings of the article, and link them to the ongoing political and legal debates.

You say immoral, I say immaterial: analysing the moral dimension

First, how does one judge what is morally correct? Entering the domain of ethics rather than law introduces a higher level of contestability and subjectivity. The article shadow boxes with an imaginary state, which it seeks to both critique and convince in terms of responses to migration blackmail. That state would surely fight back, countering that its reactions are not morally wrong through reference to different moral considerations.

While the article explains the elements of states' blackmail and responses to it that could be considered morally wrong, it does not set out the moral framework Sharp applies and why. The article does not engage with law as a basis for determining what is right or wrong, which is a valid choice, however without this point of reference it becomes incumbent on the author to explain how the rightness or wrongness is determined.

Absent agency: willing 'victims' of blackmail, part one.

One of the useful parts of the article is to coin the term "migration blackmail" and to provide a working definition of the concept. This adds valuable clarity to the analysis of the phenomenon, and migration blackmail is also a more accurate description than alternative conceptualisations of states' manipulation of migration, which range from the overly generic 'migration diplomacy' to the dangerously hyperbolic 'weaponisation of migration.'

However, as with these alternative approaches, Sharp's article risks occluding the agency of the people affected. For Sharp, the main reason that migration blackmail is unethical is that it generates 'wrongs' – unjustified harm – against migrants, or at least a strong risk of it. This is very often or "almost always" present, more common than the harm against the targeted state (ibid).

And yet, the migrants are willing participants in the vast majority of cases, as the article acknowledges – albeit not fully – when it refers to the 'interests' of the people in accessing international protection in the targeted states. People are aware of the risks and choose to take them, although the notion of choice here is complex (compare [Gerver 2025](#)). They choose to participate because all alternatives are worse, so it is not a situation of free choice. An action can still be wrong even if the victim is a willing participant, but the fact that the victim has chosen to participate is not morally neutral.

The migrant instrumentalised by the state might actually face less harm than other migrants. Almost all migrants, including refugees, travelling without formal legal means of entry are obliged to use smugglers to facilitate their journeys and entry into protecting states, which may place them in serious danger. It leads in turn to states' futile attempts to destroy the business model of the smugglers. The crack down on smuggling may itself put people at greater risk, through diversion to more dangerous routes and also through increasing profits (as supply diminishes), which attracts more serious criminal groups ([Tinti and Reitano 2017](#)). Thus, smuggling becomes trafficking and harm is multiplied.

However counter-intuitive, the blackmailing states' actions may be reducing harm compared to other scenarios, and as such could be *less* wrongful (depending on the theory of morality applied). The alternative scenarios include remaining in the country of origin, remaining in the country of transit (blackmailing state or another transit state), or paying smugglers to facilitate the journey to the destination state, all of which may involve significant risk of unjustified harm.

In the legal context, the role of choice is an element in the *C.O.C.G.* cases, with the long tail of the infamous [ND and NT judgment](#) influencing the many submissions from state parties. In that case, the ECtHR introduced the 'own conduct' test, finding that the actions of the people may abrogate their (procedural) rights. Despite subsequent efforts to refine and restrict the application of the judgment (to row back), it has been seized upon by states to justify derogating from or simply ignoring legal obligations.

None of these considerations justify a punitive approach to the applicants nor do they alleviate states of the responsibilities to examine asylum applications, but they may influence how we judge the actions of the blackmailing state.

Two wrongs don't make a right?

Sharp argues that the closed-border response of denying access to asylum when facing blackmail is morally impermissible because it directly causes wrongful harm to migrants, undermines the legitimacy of the international order which depends on refugee protection, and because states have a duty of rescue.

Overall, these are strong arguments for refugee protection, but they are not specific to situations of migration blackmail. The section does not engage explicitly with a central question: what impact does the (purported) wrongfulness of the blackmail have on the moral obligations of the targeted states?

The current debate on migration blackmail turns on two other elements. First, the states' claim that weaponisation of migration is something new that therefore requires a different response beyond the confines of existing obligations, and second, that the wrongful action of the blackmailing state justifies a suspension of the usual obligations to avoid harm and provide protection. The claims to newness and exceptionalism and therefore suspension of the standard obligations needs to be addressed, even if the response is that the general reasons for respecting protection obligations still apply.

Structural unfairness in the system

Sharp usefully contextualises migration blackmail within the overall refugee protection system. He considers whether the action is a 'countermeasure' resulting from the unfairness of the system and in particular the well-documented uneven division of responsibility. He does not shy away from the "culpability" of targeted states in contributing to an unbalanced system (Sharp 2025, 306). This chimes with the longstanding critique that the global refugee protection system facilitates, or *exists to facilitate*, the deflection of responsibility from richer countries to the poorer countries that host +70% of the global refugee population. Here complex moral dilemmas arise which could be further explored.

Examining the power dynamics of migration cooperation may show that the countermeasure of allowing onward movement of people represents respect for moral and legal obligations – even if part of a blackmail effort. The blackmailing states are often under pressure from European states to take actions that are unethical and/or unlawful, including restriction of movement amounting to unlawful detention, onward expulsion including refoulement, violation of International Law of the Sea by disembarking people in a place that is not safe (such as their own territory...), and, above all, prevention of departure of refugees from the territory, a clear breach of international law. By facilitating movement, the blackmailing state may be acting as it should rather than carrying out a wrongful act.

The use of conditionality, threats, and punishment to persuade states to contain people may even amount to blackmail, meaning that the blackmailing state was previously blackmailed – by the purported victim. In any case, as migration is further integrated into geopolitics, these inter-state power dynamics still do not justify harms against the people caught in the middle, as Sharp explains.

The solutions are available...

While criticising the closed-border response, Sharp (*ibid*, 298) suggests that the targeted states “retain a range of policy options to resist blackmail and mitigate its costs.” It is welcome to read an analysis that goes beyond the critique of the states’ actions to also outline the alternatives that are available (although addressing the ‘reasonable policymaker’ might be questionable, since they are few and far between in the area of migration.) For example, one option would be to avoid the situation arising in the first place, which Sharp describes as a preventative approach (compare *ibid*, 320).

When blackmail does occur and cannot be avoided (because the interests of the migrants take precedence), Sharp proposes a mitigation strategy of limited openness covering negative and positive bargaining (rather than the filtering suggested by the term). Negative and positive bargaining refers to measures often grouped together as ‘solidarity’ in the EU context: acquiring additional resources to manage arrivals and/or deflecting responsibility (and people) towards other EU states.

From a moral perspective, these tactics are indeed preferable to harmful border closures. The reason they fail relates to an EU-internal variety of global migration dynamics. Certain states’ only priority is to contain people in the countries of first entry into the EU, which both mimics and causes the efforts to stop arrivals through containment in third countries. The Dublin system places disproportionate responsibility on the countries at the external borders, which in turn have a perverse incentive to keep standards low (below the legal minimum) and engage in actions such as blackmail. While Dublin is repealed by the Regulation on Asylum and Migration Management, the fundamental rules on responsibility live on and their consequences are not adequately alleviated by the new solidarity mechanism. This fundamental flaw in the reform means that the externalisation efforts and resulting blackmail will persist, because no solution based on fair sharing of responsibility within Europe is foreseen.

The willing victims, part two?

Finally, we may want to question the presumption that states want to escape blackmail. Sharp refers to the targeted states' interests in effective responses to blackmail, i.e. not 'giving in' to the blackmailer, as the theory goes. However, European states have actively used situations of migration blackmail to their great advantage and may even win the ultimate prize, the erosion of the absolute nature of the principle of non-refoulement, should C.O.C.G. go in their direction as the political pressure on the ECtHR mounts.

Migration blackmail has allowed European states to manufacture crises and to seek to justify their efforts to erode legal and ethical standards. This does not undermine the value of Sharp's attempt to explore how they could escape the dilemma *should they wish to do so*. Unfortunately, it does mean that in practice the strategies set out may not be realistic.

It is not that states want to be blackmailed or seek it out. Rather, it is, first, an inevitable and predictable result of 'externalisation' strategies, i.e. of efforts to transfer and outsource responsibilities to other countries. The dependency created is a source of leverage for the countries involved, and some will use it. Indeed, those most likely to accept the European states' offers are those with unscrupulous leaders perhaps more likely to later engage in blackmail. In entering into such arrangements, states are surely aware of the future risk of blackmail. To ignore it would also be to deny agency – in this case the obvious agency of the counterpart states.

Second, European states and institutions have actively used situations of instrumentalisation to pursue their pre-existing agendas, and this is the sense in which they are also willing victims. Notably, situations of blackmail led to the codification in EU law of the concept of instrumentalisation as a justification for derogation from legal obligations. The first drafts of the Pact contained extensive derogations which were then removed from the published proposal, probably due to legal objections. With the blackmail of Belarus in 2021, derogations returned, first in the Instrumentalisation Regulation, and when that was rejected, through the backdoor with integration into the Crisis Regulation. The Regulation also allows for misuse of the *force majeure* concept in the migration context, itself a creation of the 2020 blackmail situation at the border between Türkiye and Greece.

All to say, the article makes a valuable contribution to the understanding of migration blackmail, a phenomenon that is far from new, but which is taking on new forms as externalisation is used by states and endorsed by EU institutions, and possibly even by the European Courts. Convincing states to act otherwise will require grappling with rather different understandings of moral obligations, which in turn underpin efforts to erode legal standards.

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About the “Dilemmas” project

This commentary contributes to the ‘Dilemmas’ project at the EUI’s Migration Policy Centre. Dilemmas analyses and debates fundamental ethical dilemmas in policy-making on migration and refugee protection.

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Migration Policy Centre

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Contacts

Website: <https://www.migrationpolicycentre.eu/>

LinkedIn: @Migration Policy Centre

Facebook: Migration Policy Centre

E-mail: migration@eui.eu

Address: Convento di San Domenico
Via delle Fontanelle 19

I-50014 San Domenico di Fiesole (FI)