

# Moral Leadership or Moral Hazard? Germany's Response to the Refugee crisis and its Impact on European Solidarity

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## Abstract



External crises combined with the relative weakness of EU institutions have pushed Germany to openly embrace a leadership role in Europe and beyond. Most recently, Germany has unabashedly taken the lead in managing Europe's refugee crisis. But has its agenda for a solution strengthened EU institutions and brought Europe closer together or has it torn Europe further apart? I argue that Germany has followed a familiar pattern in taking the lead. First, *leading by example*, Merkel began by taking in the most refugees within Germany's borders. Next, Germany successfully persuaded its largest partners to *share the burden*. Seeking European solidarity in the resettlement project, Germany led the effort to expand the EU's area of competence in migration, adding to the

EU priority of securing external borders the task of resettling asylum seekers. Encouraged by Germany, the EU offered *carrots* in the form of financial aid for resettlement to all member states; Germany, however, argued for the use of *sticks*--a compulsory program of resettlement to be imposed on its European partners. The program was grudgingly accepted, but only because it was subject to a majority vote. As in the Greek case, in which Germany imposed its preferred domestic economic policy on a fellow member state, this "stick," of mandatory resettlement quotas drove a wedge between the Eastern and Western members of the EU. This case suggests that German leadership in Europe is constrained by its institutional *embeddedness* in European Union, and in this constrained role, Germany can never lead by coercion. The use of its coercive power in Europe will only serve to undermine Europe's unity, already weakened by EU efforts to acquire new areas of competence without adequate authority. Furthermore, the refugee crisis cannot be solved within Europe's borders; nor can it be solved on Europe's edges, in Turkey, Lebanon, and the camps of Jordan. It is a global crisis, with its roots in war, poverty, failed states, religious extremism, terrorism and even environmental degradation. Germany and the EU need the United States to become a full partner in managing this crisis and its roots.

## The Questions

Germany's growing weight on the European and world stage is indisputable. But Germany is also embedded in Europe, and its commitment to the task of helping to forge European solidarity has been crucial to the success of the European Union. Long Europe's economic powerhouse, but afraid to utter the words "European hegemon" and the connotations of unwanted European dominance it conjured, Germany played the role of Europe's "patron" of integration behind the scenes, using its greater weight and influence in Europe to provide public goods in the service of forging European solidarity without unilaterally setting its terms. As Wolfgang Ischinger has noted, Germany could be called Europe's Chief Facilitating Officer,"<sup>1</sup> creating conditions necessary for cooperation and solidarity across a number of issue areas.

In doing so, Germany seemed to look beyond its own parochial interests. In many issue areas it exerted quiet leadership, by setting an example and regulating its own banks and industry to signal a need for Europe-wide policy harmonization. Successive German governments incurred domestic costs to do so, expecting to coax other members to come on board. This does not mean that Germany did not act in its own interest, but rather that it saw its interests as bound up with the interests of its partners. Germany's ability to achieve those interests was also bound within the EU's institutional constraints. Berlin's means of persuasion were "soft": first setting

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<sup>1</sup> "Germany's Hegemony Trap," *Project Syndicate*, September 14, 2015

examples for new areas of cooperation within the EU's institutional structure, then asking for burden sharing, and finally, providing carrots, or "side payments" to sweeten the pot.

German "soft leadership," however, was thwarted when the EU, in efforts to expand its areas of competence, faced crises which were exacerbated by a weak institutional structure that provided little authority. Without backing by an authoritative EU structure, Germany made demands of its partners, demands which were perceived as unilateral and coercive. In the Greek sovereign debt crisis, the euro's stability had been shaken by the absence of Eurozone banking and fiscal regulations in the face of the global financial crisis. Without institutional backing, the German government demanded austerity policies in exchange for loans in order to maintain the stability of the euro. As the author of austerity demands, Germany not only unilaterally set the terms of cooperation but refused to use its resources to provide the stimulus necessary to ease the burden of eurozone cohesion.

And then, on the heels of *that* crisis, refugees from the Syrian war, from imploding Iraq, and from war-weary Afghanistan began to pour into Europe, seeking asylum. Again, the EU had no institutional authority to adequately respond. The grand dream of a borderless Europe, like the dream of a single currency, was under threat. Again, Germany set the terms of Europe's response: Angela Merkel proclaimed that Germany would favorably consider asylum claims from all Syrian nationals and allocate \$6.7 billion to take in 800,000 refugees. She also led an effort within the EU to mandate that member states also resettle their share of refugees. As *Der Spiegel* opined, "Merkel's invitation to refugees . . . wasn't just in Germany's name. She was effectively speaking for all of Europe."<sup>2</sup> The mandate triggered opposition from the new member states, adding an stark European East-West divide to the North-South rift created in the Greek debt crisis.

The story leads me to address the following questions in this essay: does Germany's leading position in the refugee crisis in the absence of EU institutional strength mean that Germany is again turning away from its long time role as underwriter of European solidarity to that of a destabilizing force in the European project? Does this case, coming on the heels of the Greek tragedy, suggest a new trend: the reemergence of a powerful Germany on the European continent destined to pull Europe apart in the face of an EU that is not fully equipped to deal with crisis? Is Germany today, as Hans Kundnani argues, a destabilizing aggressive force that threatens to recast the European project into an imperial core and a dependent periphery?<sup>3</sup> Are we beginning to witness a return of the "German Question," a term which describes how Germany long destabilized Europe with its military might and has now returned to destabilize its European partners with its economic power, leaving behind a weakened EU? Or are we witnessing a Germany that is attempting to exercise authority in order to stave off further crises until an adequate EU institutional structure can be constructed?<sup>4</sup>

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<sup>2</sup> "Mother Angela: Merkel's refugee Policy Divides Europe," *Spiegel Online International*, September 21, 2015  
[www.spiegel.de/international/germany/refugee-policy-of-chancellor-merkel-divides-europe-a-1053603.html](http://www.spiegel.de/international/germany/refugee-policy-of-chancellor-merkel-divides-europe-a-1053603.html)

<sup>3</sup> *The Paradox of German Power*, London: Oxford University Press, 2014.

<sup>4</sup> In fact, Eurozone partners have begun to build that structure to support the single currency. Since 2011, the ECB has extended its authority to purchase sovereign debt, and to become a

In addressing these questions, I begin with a brief examples in which Germany influenced European solidarity (both strengthening it and undermining it) **through the use of example, domestic sacrifice, burden sharing requests, carrots, sticks, agenda setting and unilateralism**. I then turn to the essay's chief empirical focus: the European refugee crisis of 2015. Because the crisis is fluid and ongoing, my conclusions are tentative: the crisis itself has undermined European solidarity, but Germany's search for a resolution through both resettlement and restriction has critically influenced the strength and scope of solidarity in both positive and negative ways.

### **Background: Facilitating conditions and setting the terms for cooperation in Europe.**

German leadership in Europe has not always been necessary to the European project, and when it was exercised it was not always evident. The process of European integration through the growth of institutions, expansion of rules (called "directives" ), and acquisition of new members has most often been that of "muddling through" to slowly but intrusively build capacity and competence in more and more areas of policy-making. Germany has encouraged this process of European integration by making cooperation easier for its partners at its own expense. When it became the largest net contributor to the EU budget in the 1980s, Germany eased the burden of European integration for weaker states. And it has remained in this position to this day, consistently paying in almost twice as much as it has received, providing weaker European countries and regions with the lion's share of funding for economic development<sup>5</sup> in order to forge "cohesion" between richer and poorer EU members. In a number of issue areas, Germany led by domestic example and then asked its EU partners to share the burden. For example, in order to stem the tide of WMD proliferation, it facilitated the creation of a European export control regime by being the first to withhold its own dual-use high technology exports from the market, then asking its European partners to follow suit and share the burden of high technology restrictions. Again, in helping to forge a common EU environmental policy, Germany first imposed environmental standards in its own industries and then asked its European partners to impose the same restrictions on their polluting industries. Similarly, Germany, with its leadership in climate-friendly innovations, set a domestic example that served as a basis for the EU's renewable energy directive. In the European Monetary System (EMS) of the 1980s, Germany's Bundesbank provided a model for achieving and maintaining price stability within Europe. Germany encouraged cooperation by spending its considerable reserves to buy falling currencies to maintain their value and lowered the discount rate to provide counter-cyclical lending. Under German leadership and until German unification, the EMS proved to be remarkably successful in

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lender of last resort through the European Stability Mechanism, and to provide liquidity through its quantitative easing program in 2015. The European Financial Stability Facility was created to accompany the ESM as a bail-out mechanism, and the ECB began to provide long-term loans to stabilize private banks. The Fiscal Compact provided ECB oversight of individual country budgets and strengthened budget rules. Germany provided the lion's share of resources for this expansion of EU authority. But it still cannot respond to economic downturn resulting from deflationary pressures

<sup>5</sup> In contrast, France and the UK have managed to maintain relative parity between payments and receipts.

stabilizing exchange rates and strengthening the single market. When EMU replaced the EMS, Germany insisted that the ECB be created on the model of the Bundesbank and that EMU members adopt the German model of price stability. The rules of monetary union were set according to German preferences. Like EMS and EMU, Germany set the terms for EU trade policy and continues to do so.<sup>6</sup>

Germany famously undermined European solidarity once in the early years after unification. In 1991 a newly united and sovereign Germany extended unilateral diplomatic recognition to Croatia and Slovenia in direct contravention of the preferences of its European partners in their nascent effort to provide a unified stance toward the breakup of Yugoslavia. This unilateral move was possible because the diplomatic institutional structure of the EU was still weak, but it stymied Europe in its effort to play a global diplomatic role, an effort which was only revived with the creation of the External Action Service in 2009.

When the EU imposed sanctions on Russia as a response to the Ukraine crisis—partly caused by the EU’s weak conceptualization and institutionalization of an “Eastern Partnership,” Germany led its European partners by putting up the highest stakes. Merkel was the point person in the EU’s contact with Russia and led the crafting of the EU sanctions regime. She defied powerful domestic exporters by putting them on notice that—if EU sanctions were imposed-- their business with Russia might end. Because Germany’s trade with Russia was the largest in the EU, German business had the most to lose if Russia retaliated. Merkel joined forces with US President Obama—who, unlike her, faced little domestic opposition on this issue—to cooperate on a US-EU sanctions regime. In order to encourage EU burden sharing on joint sanctions, she backed the inclusion of exceptions to the sanctions: gas imports were exempted (some EU members depend on Russia for 100 per cent of their natural gas needs), and it was agreed that existing contracts with Russia would be honored (France was in the process of completing delivery of two warships commissioned by Russia and ExxonMobil saw no interruption in its business). In the end, the sanctions were quite modest but EU solidarity was achieved through consensus. Germany set the terms for EU diplomacy toward Russia in taking the lead to negotiate a cease-fire in Ukraine: throughout the crisis, EU foreign policy toward Russia has mirrored the German foreign policy of exercising “civilian power.” As Andrew Moravcsik has written, “the civilian strategy that is slowly succeeding [there] is essentially a German-led EU strategy.”

First with the Ukraine crisis and then with the sovereign debt crisis, Germany came out from behind the scenes to take the lead in crafting a European response. In the Greek crisis, however,

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<sup>6</sup> The EU Commission, for example, will not take a major decision on trade policy unless Germany is on board. Indeed, several regulatory initiatives launched between 2011 and 2015 were put on hold because Germany did not back them. Günther Oettinger, the outgoing German commissioner in charge of energy, is considered a favorite to become the next EU Trade Commissioner. And a German is now at helm of the new European Parliament’s international trade committee. Germany has taken the lead within the EU in negotiating the Transatlantic Trade and Investment Partnership (TTIP) with the United States. And because of Berlin’s objections, a key clause on investment arbitration was scuttled. See Alexsia Chen and Beverly Crawford, “The power of public opposition to TTIP in Germany: A case study in the demise of ISDS,” forthcoming in *Business and Politics*, 2016

German leadership of the eurozone turned coercive and, some would say, cruel. Having already implemented its own “austerity” measures in 2005 and then experiencing a skyrocketing trade balance, Germany began by paying the lion’s share of the costs of financing Greek debt in 2010.<sup>7</sup> When the European Stability Mechanism (ESM) was created in 2012 to continue that effort, Germany provided the bulk of ESM’s capital. But Germany had the same deep commitment to price stability that it had shown in EMS and had insisted on in EMU. Economic stimulus for Greece would read as inflation in Germany’s domestic political environment and would deviate drastically from the common monetary policy that had persisted shaped Germany’s preferences throughout the post-war period. So Angela Merkel brought out the “sticks,”—instruments of coercion-- to lead its Eurozone partners in the direction in which it wanted to go. Although Germany was able to gather a strong coalition in the ECB to support its austerity demands, Eurozone cooperation began to unravel. Many observers seized upon the German role in the Greek crisis to raise questions about Germany’s general commitment to solidarity with its European partners.

German behavior in the Greek saga undermined solidarity in ways that Germany has not exhibited since its unilateral recognition of Croatia at the outset of the Yugoslav war of succession in the early 1990s. Will Germany’s role in the refugee crisis tell a similar story? Or will Germany once again lead the EU in gaining competence in a new issue area—that of asylum policy--and again become a facilitator of European solidarity?

### **The Refugee Crisis of 2015**

The current refugee crisis is unprecedented, with an unparalleled number of refugees worldwide who are seeking asylum from persecution and violence. In 2014, 630 000 asylum requests were registered in EU member countries, a number last reached during the 1992 Bosnian war. But by November 2015, Germany alone had registered 964,574 asylum seekers. The European Commission estimates that three million asylum seekers (including 2015 numbers) are likely to arrive in Europe by 2017.<sup>8</sup>

These numbers do not come close to expressing the suffering, anguish, and trauma that each individual refugee experiences. Preliminary data gathered in refugee interviews I conducted in Turkey in August-September of 2015 tell stories of the brutal death of children, mothers, fathers, sisters and brothers, the complete destruction of villages, neighborhoods, and homes; they tell of hunger, illness, sexual assault; they speak of continuing the trauma of having witnessed these events and having been victimized by them. They tell of devastating isolation, loneliness, trauma, and fear. Those in Turkey, waiting for a smuggler to arrange for them to be ferried to Greece, must sleep in the street on their life jackets or in squalid hotel rooms crammed tightly together with other refugees. Women are sexually abused by smugglers, male refugees, and government officials. Almost half of all refugees are under 18, and half of those are under 11. Fearful young teenage boys are traveling alone, for the first time in their lives, sent by their families as the ones deemed strong enough to weather the journey. With life savings devoted to

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<sup>7</sup> In the early period of the ECB’s ill-fated efforts to intervene in markets to buy Greek debt at the outset of the euro crisis, Germany again provided the largest share of the contributions (30% to France’s 20% and Italy’s 17%).

<sup>8</sup> EU Observer, “EU expects 3mn Migrants by 2017,” January 19, 2016 <https://euobserver.com/migration/130979>

the journey to Europe, mothers have little money to buy diapers for their babies or clothes for their children.

If asylum seekers can make it to refugee camps, they face other dangers. The UNHCR camps are woefully underfunded; globally they are \$4 billion short of their requirement for 2015. Jordan, Lebanon, and Turkey struggle to absorb millions who flee for their safety. Refugee living conditions are miserably inadequate: World Food Program rations are 50 cents per person per day, and shelters are cramped and unsafe. In the camps, people wait for years for asylum applications to be processed; sometimes they remain in limbo there for generations. Under these conditions, thousands of people per day are leaving the camps, and many bypass them altogether, looking for permanent refuge that can offer food, shelter, work, education, and a home.

Not only are refugees fleeing from death and destruction in their homeland and facing hunger and scant shelter in the camps, they are forced by EU restrictions to take a perilous journey to gain refuge. Those who come to Turkey must leave quickly or go underground, because Turkey grants only temporary asylum. They cannot fly to the safety of the European nations who are obligated by treaty to take them in; despite the fact that under international law they can legally seek asylum without a visa or even a passport in a country that has signed the Geneva Convention on Refugees, airlines refuse to sell them a ticket, and border control officers will not let them pass without such documentation. Busses and taxis refuse to take them to European borders. Therefore, they must make the death-defying journey by sea, to enter the EU on the shores of Greece and Italy, or by land, outwitting border control to enter on foot through the barbed wire fences of Bulgaria, Hungary, and Estonia. Over 3,000 refugees have perished at sea, attempting to exercise their legal right to asylum. Others have died inside refrigerator trucks, and in winter, many will die from the cold. If they survive however, once within the EU, the authorities are forbidden by law to send them back to their country of origin and they are entitled to apply for asylum. But the European Union expends tremendous resources to prevent refugees from crossing into Europe. In fact, until the summer of 2015, securing the EU's external borders against an influx of migrants had been the sole

### **Germany's Initial Response**

The EU's efforts to keep refugees out had worked in the past. But in the summer of 2015, the number of asylum seekers began to double, then triple, and then quadruple, and the barriers proved to be too weak. Germany's initial response to this crisis was to welcome refugees in Germany and reshape EU refugee policy. That response followed a familiar pattern: First lead by domestic example, then ask for burden sharing within the EU, offering carrots and, if necessary, sticks to bring EU partners on board. Angela Merkel openly acknowledged this strategy of leadership: In a speech to the German parliament on September 9, 2015, she stated: "If we show courage and lead the way, a common European approach is more likely." "If Europe fails on the refugee issue, we would lose one of the key reasons for founding a united Europe, namely universal human rights."<sup>9</sup> Germany's strength and power in cooperation with its partners, she stated, would be the key to solving the crisis.

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<sup>9</sup> See Nicole Goebel, "Germany must 'lead the way' in refugee crisis, *Deutsche Welle*, September 9, 2015 <http://www.dw.com/en/germany-must-lead-the-way-in-refugee-crisis/a-18702937>

*Setting an Example: Public enthusiasm and industry support*

Three unilateral decisions forming Merkel's domestic policy response were breathtaking. Following the pattern of providing an example to European partners, Chancellor Merkel unilaterally announced that Germany would take in almost a million refugees and pave the way for refugee integration into the labor force. "Those who come to us as asylum seekers or as war refugees need our help so they can integrate quickly," Merkel told the parliament, adding that it would be necessary to help them learn German quickly and find a job.<sup>10</sup>

Second, stopped enforcing the Dublin Agreement; That agreement among all EU members stipulated that refugees had to register in the first EU country they entered. But Hungary, a "frontline state," had refused to process refugee applications. Merkel's suspension of that agreement meant that they could now come directly to Germany and register there. She thus lowered the hurdle for refugees from Syria to enter the EU, going even beyond what was required by the Geneva Convention.

Both UNHCR and Germany's European partners saw this suspension as helpful: UNHCR claimed that the regulation abused the rights and welfare of refugees because they were not always to access an asylum procedure in the "frontline" countries.<sup>11</sup> By June, 2015, Hungary was so overburdened with applications that it would not allow applicants back in if they left Hungary. Germany's unilateral suspension of the agreement eased that burden considerably; the European Commission hailed it as an act of European solidarity. Where Germany had been reviled as a *coercive hegemon* with its haughty austerity demands of Greece, it was now praised as a "moral leader,"<sup>12</sup> again seeming to set a strong example for Europe and again, making a domestic sacrifice to demonstrate its resolve. Nicholas Kristof of the *New York Times* said "bravo" to Merkel.<sup>13</sup> Israelis declared that Germany was being "noble."<sup>14</sup> Skeptics, however remained unconvinced by this seeming largesse. Marine Le Pen accused Merkel of encouraging immigration to "recruit slaves."<sup>15</sup> Some argued, that Germany's *unilateralism* in this case would

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<sup>10</sup> Indeed, Germany not only offered to take refugees in, become a safe harbor for them, and provide the most generous financial support of all EU countries, Berlin declared that any refugee was allowed to seek employment, starting three months after submitting an application for asylum. Further, the Federal Employment Agency quickly developed a pilot program offering a path to employment through language training and apprenticeships for any asylum seeker, regardless of their status. The program has been funded with a grant of 2 billion euros.

<sup>11</sup> Susan Fratzke, "Not adding Up: The Fading Promise of Europe's Dublin system," *Migration Policy Institute Working Paper*, March 2015.

<sup>12</sup> Annett Meiritz, "How Germany became Europe's Moral Leader on the refugee Crisis," *Vox*, September 11, 2015.

<sup>13</sup> "Compassion for Refugees Isn't Enough," *International New York Times*, September 10, 2015

<sup>14</sup> Quoted in "Mother Angela: Merkel's refugee Policy Divides Europe," *Spiegel Online International*, September 21, 2015

<sup>15</sup> "Germany is 'exploiting' refugee suffering to recruit 'slaves' via mass immigration-Marine Le Pen," *Russian Times*, September 10, 2015.

create a *moral hazard* bringing an even more unmanageable flood of refugees crashing over European shores.<sup>16</sup>

A third decision, expanding an interpretation of the German constitution, was also stunning. Merkel argued that the burden of the Nazi past obligated Germany to take these decisions. Article 16 of the German constitution clearly guarantees the absolute right of asylum in Germany for those fleeing persecution. The article was amended in 1992, due to the influx of a million asylum seekers in the fallout from the Balkan wars. The amendment states that Germany will not accept applicants from countries deemed to be "safe," and it required asylum seekers to prove they have been persecuted. Merkel, however, expanded the definition of "persecution" to give the right of asylum to any Syrian fleeing the horrors of war without showing evidence of political, religious, or ethnic persecution.

At the outset, the German public was solidly behind Merkel's decision. With the tragic sight of three year old Aylan Kurdi lying face down on a Turkish beach, Germans opened their arms to Syrian refugees. An astounding 88 per cent of the German population donated funding, clothes, toys, food, and their own volunteer efforts to the incoming Syrians. Since a modification of the *jus sanguinis* citizenship law in 2000 the German public was coming to realize that Germany was an *Einwanderungsland*, and a multicultural society. Due primarily to Germany's electoral rules which raised the bar for extremist parties to participate in government, radical right and anti-immigrant politics were not as virulent in Germany as in other European countries.<sup>17</sup>

And auguring well for Merkel's embrace of refugees was Germany's labor shortage and desperate need for immigrants to contribute to the growing bill for pensions and health care. With its aging population and low birth rate, Germany is suffering a net population loss of 200,000 people per year. With close to full employment, Germany currently has about 612,000 job vacancies with 43,000 open positions in IT alone.<sup>18</sup> Chancellor Merkel has consistently met with industry leaders to discuss a reform of labor regulations to bring refugees quickly into the labor force. Siemens quickly put together an internship program for refugees, and several other firms followed suit. Capturing the mood of German industry, the CEO of Daimler announced: "Most refugees are young, well-educated and highly motivated - just the sort of people we are looking for."

### ***Seeking burden sharing and expanding EU Competency: sticks and carrots***

The EU's only role in migration policy until this point had been to ensure strong borders through its Frontex program, a border management agency which coordinated cooperation in border control between member states. Europe had no asylum policy, and Frontex had no mandate to conduct search and rescue operations for migrants attempting to cross the Mediterranean.<sup>19</sup>

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<sup>16</sup> Michael Teitelbaum, "The Truth about the Migrant Crisis," *Foreign Affairs*, September 14, 2015

<sup>17</sup> This, however, would soon change with a shift in the AfD's platform and growing popularity.

<sup>18</sup> [http://www.germany.info/Vertretung/usa/en/\\_pr/P\\_Wash/2015/12/08-RefugeeJobs.html](http://www.germany.info/Vertretung/usa/en/_pr/P_Wash/2015/12/08-RefugeeJobs.html)

<sup>19</sup> This, of course, is not just a European practice. Other countries who have signed the Geneva Convention also tighten their borders and fine airlines who allow refugees to fly without documents



Migrant deaths at sea had begun to pose a highly publicized humanitarian crisis. In order to reduce the number of those who slipped past border controls, and prevent the high-profile deaths at sea, the EU had paid Moammar Gadhafi's government to intercept and turn back migrants attempting to make their way through Libya to Europe. Border control and arrangements with transit countries to block the flow of refugees did not contravene the Geneva Treaty, which only obliges its signatories *not* to return refugees back to their country of origin; the treaty does not mandate that they resettle those who gain asylum on their own soil. If signatory countries do not want to keep refugees, they are responsible for repatriating them to third countries. Many of those countries, however, refuse to accept them. Strong borders remove the refugee problem for those who have promised to not turn them back.

As growing numbers of refugees swarmed into Germany, Chancellor Merkel called for burden sharing by widening the EU's competence in migration policy. A plan for a common EU asylum policy which she had encouraged had been lying dormant for months, and Merkel intended to resurrect it. Her goal was to share the growing refugee burden by spreading refugees among EU member states. National governments, not supranational authorities, normally decide on issues of refugee quotas and resettlement. The EU proposal was revolutionary in this regard: it would remove that decision-making power from its members. It would be the first time that the EU has exercised authority over the resettlement of refugees. This would mean nothing less than one more step in the expansion of the EU's power over the policies of its members.

Angela Merkel fully intended for Germany to lead the effort to share the burden and expand EU competence over refugee resettlement while keeping borders open, stating that "without clear guidance, Europe will probably fail to find a way through this historic crisis."<sup>20</sup> She stated that the mandatory quota system for all was necessary because it would not be possible to simply set a limit and then leave it up to two, three, or four members to take in all of the refugees. "This must be a European responsibility, and only then will all member states care about the causes of migration." While recognizing that any resettlement plan would not resolve the crisis of refugees in Europe, she argued that a distribution of asylum seekers across all member states would galvanize them to find a way to address the conflicts driving people to flee to Europe.

Merkel's next step was to use persuasion and incentives or "side payments" in order to convince EU partners to share the growing refugee burden by resettling refugees on their territory. Propelled by the discovery of 71 dead migrants in a refrigeration truck in Austria, and a dead baby on a Turkish beach, the EU Council met in early September, 2015, to consider a proposal to redistribute 160,000 refugees throughout member states through a *mandatory* quota system over two years. In order to sweeten the deal, The European Commission proposed to allocate 780 million euros to fund the redistribution program. Each receiving country would get €6,000 per relocated person. In addition, Italy, Greece and Hungary would get €500 per relocated person, to cover their transport costs. Greece would later receive another 5.9 million euros. Turkey and the Western Balkans would be labeled as "safe" countries, to which asylum seekers could be deported if their claims in a European member state were rejected. And finally, the EU commission agreed to reinforce the EU's external borders to reduce the refugee flow.

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<sup>20</sup> Quoted in Annett Meiritz, "How Germany became Europe's Moral Leader on the refugee Crisis," *Vox*, September 11, 2015.

With opposition among member state rapidly developing, the EU Commission, knowing that unanimous acceptance of the plan would not be possible, moved the debate from the Council to a meeting of interior ministers, in which qualified majority voting was the rule. There, only a majority approval was needed to implement the plan. To gain that majority, German officials, including Merkel herself had been lobbying the bigger, more populous states behind the scenes. Merkel would need to have, France, Spain, and Italy on board. With Italy already in agreement, she first convinced French President Francois Hollande to resettle some of the refugees there, and to present the mandatory quotas as a joint French-German plan, recalling the days when they were the two pillars holding up the Union. She then persuaded Spanish Prime Minister, Mariano Rajoy, who had been one of the most hostile opponents of Brussels' resettlement plan, to accept quotas. The plan would go through.

### **Germany's Shaky Leadership: European and Domestic Opposition**

But the use of qualified majority voting in this issue would have a negative impact on European solidarity—which, as the Russian sanctions case had demonstrated, is best achieved through consensus expressed in unanimity. It was clear that the plan could be forced through with the agreement of the large countries; nonetheless, when some members of the Visegrad group balked at mandatory quotas, Merkel's insistence grew harsher and she issued an implicit threat: "What isn't acceptable in my view is that some people are saying this has nothing to do with them. This won't work in the long run. There will be consequences." Thomas de Maiziere, Germany's Minister of the Interior, floated the idea that countries who rejected refugee quotas could receive less EU funding.<sup>21</sup> As the largest contributor to the EU budget, would Germany use its EU contribution as a stick to punish those who did not cooperate? Merkel stopped short of this coercive step: the final agreement did not include Thomas de Maiziere's proposal.

Dissenters were defiant but for the most part compliant. Poland voted for the plan, and Viktor Orban—who had built a fence to keep refugees out of Hungary and voted against the plan—, said that his government would abide by the majority vote. But the Czech Republic objected to the proposal on principle and voted against it, using the moral hazard argument. Czech Prime Minister Bohuslav Sobotka declared that "We are helping, we are ready to help, but on a voluntary basis. The quotas won't work." Nonetheless he agreed to abide by the majority opinion. Romania voted against and declared that it would refuse its allotment, arguing that it had never been able to integrate Muslim Roma into its society, and it would be unlikely that Syrian Muslims would integrate. But after the vote, Romania accepted the majority decision with the statement by President Klaus Iohannis that "I still believe the mandatory quotas are not a solution to Europe's migrant crisis. But the number of refugees Romania must receive is not large. It is manageable and I think Romania must show solidarity." Slovakia, declaring that it too would not respect the quotas at all, began legal proceedings at the ECJ protesting the plan. Threatening to leave the EU if his country was forced to take its quota of refugees, Prime Minister Robert Fico told his parliament's E.U. affairs committee that "As long as I am prime minister, mandatory quotas will not be implemented on Slovak territory." Hungary followed suit, planning to file its own court challenge to the compulsory plan.

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<sup>21</sup> Quoted in "Berlin calls for sanctions on EU states that reject refugee quotas" *Deutsche Welle*, September 15, 2015 <http://www.dw.com/en/berlin-calls-for-sanctions-on-eu-states-that-reject-refugee-quotas/a-18714957>

With only one refusal, then, solidarity was barely achieved on refugee quotas and, implicitly, on the EU's bid to expand its competence into asylum policy. But an EU plan, spearheaded by Chancellor Merkel, for "compulsory and permanent" EU quotas was opposed by more than half of the EU members and landed dead in the water. And after the terror attacks on Paris on November 13, even opposition to the 2-year plan was bolder and more widespread.

*Bypassing Dissenters: The "Coalition of the Willing"*

Merkel's next step was to bypass the dissenters to create what the press called a "coalition of the willing" to voluntarily resettle Syrian refugees languishing in Turkey in Europe. Frustrated by the lack of support and the floundering resettlement plan, Merkel cut across the "North-South divide" that had emerged from Germany's austerity demands on Greece. She brought together the leaders of Sweden, Finland, Austria, the Netherlands, Luxembourg, Belgium, and Greece to support a voluntary plan for the resettlement of refugees from Turkey to Europe. The plan, presented by the EU Commission as a "recommendation,"<sup>22</sup> would create "legal migration" from Turkey to the EU and be accompanied by EU funding in exchange for Turkey's promise to secure its borders to the maximum extent. Viktor Orban got wind of the agreement, calling it a "secret agreement to resettle 400,000 to 500,000 Syrian refugees which would place "huge pressure" on all member states to take part.<sup>23</sup>

Before the September vote, Germany had taken another step which would strike an additional blow to European solidarity. The speed and scale of the refugee influx had begun to strain Germany's ability to process applications and care for the asylum seekers. Bavaria asked for aid from the other federal states in order to provide emergency accommodation. Berlin acknowledged that it was struggling to cope. To slow down the flow, the federal government reintroduced temporary border checks on Germany's border with Austria, triggering similar moves in the Netherlands, Slovakia, and Austria. France had been operating police checks on its border with Italy for some time, citing security as a motive. Germany then reinstated the Dublin agreement. EU interior ministers had moved to suspend the Schengen agreement so that member governments could introduce border controls for up to two years. And the temporary resettlement policy appeared to be floundering. By December, only 159 of the 160,000 refugees had been resettled.

*Domestic opposition to Immigrants in Germany*

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<sup>22</sup> "Commission presents Recommendation for a Voluntary Humanitarian Admission Scheme with Turkey for refugees from Syria," Strasbourg, 15 December 2015, [http://europa.eu/rapid/press-release\\_IP-15-6330\\_en.htm](http://europa.eu/rapid/press-release_IP-15-6330_en.htm)

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<sup>23</sup> "Hungarian PM warns of 'secret' EU plans to bring Syrian refugees from Turkey," Deutsche Welle, Dec. 2, 2015.

As the Summer of 2015 turned into Autumn, 10,000 asylum seekers a day arrived in Germany, and political opposition to Merkel's open door policy began to brew. It was always lurking in the background: extremists had been setting fire to refugee housing; the anti-euro party, Alternative fuer Deutschland (AFD), which had been losing in the polls, quickly became an anti-immigrant party and demanded that German borders be closed. Merkel's chief opponent, Horst Seehofer of the CSU siding with Viktor Orban, wanted to stop the migrants from coming, and he threatened to sue the federal government. Merkel's popularity began to slip in the polls.

Then, on December 31, 2015, hundreds of men gathered in the plaza at the main train station in Cologne, Germany, harassing and robbing women as they passed by. The police received over 800 criminal complaints, including 120 related to sexual assault. They later identified 31 suspects, 18 of them were asylum seekers. An official report claimed that the attackers were "almost exclusively" from a migration background, mostly North African and Arab. Rather than thoughtful ideas on how to integrate the one million refugees into German society, politicians called for punitive legal measures and swift deportation. It was no surprise when Angela Merkel announced that the Cologne attacks deserved a "tough response by the state," and moved to make it easier to deport immigrant offenders. The right-wing populist party Alternative for Germany (AfD) and the extremist xenophobic movement Pegida mounted new demonstrations which drew thousands of participants protesting Merkel's immigration policy. Björn Höcke of the AfD wrote on Facebook: "The events at the Cologne train station on New Year's Eve gave our country a taste of the looming collapse of culture and civilization. Hundreds of women were victims of a group of 1,000 (!) North African young men." German society appeared to be increasingly divided. And as a result, Merkel's domestic basis for European leadership on refugee policy was further weakened.

### **Partnerships Beyond Europe**

As Angela Merkel had warned at the outset, Europe would need to address the refugee problem outside Europe's borders and ultimately address its root cause. The European Neighborhood Policy had failed to create a "ring of friends," and instead, Europe was surrounded by a "ring of fire." To dampen that fire, Merkel set out to persuade Recep Tayyip Erdogan to help seal Turkey's borders and accept refugees who were to be deported. Her aim was to ensure that as few refugees as possible set out on the long journey to Germany and that those denied asylum status—e.g. Afghans, Libyans, and Somalis fleeing violent death—could be repatriated to "safe" third countries.

Her talks with Erdogan had paved the way for an agreement that emerged from the EU-Turkey summit at the end of November. In that agreement, the EU decided to provide Turkey with an initial payment of 3 billion euros to improve conditions for Syrian refugees currently in Turkey, tighten Turkey's borders by increasing coast guard and navy patrols in the Aegean Sea and tighten border controls between Turkey and Bulgaria. In turn, the EU would loosen visa restrictions on Turks traveling to Europe and would speed up negotiations on Turkey's bid to join the EU.

Then Merkel called upon the EU to help stabilize conditions in refugee camps in the countries surrounding Syria. Recall that one of the key causes of the refugee exodus to Europe in the

Summer of 2015 was the shortage of food. In Jordan, refugees amount to 25 percent of the total population; they desperately need food and medical supplies. In Lebanon, where refugees make up 13 per cent of the population, there are fewer camps. Refugees live in squalid conditions among the local population and threaten to further destabilize an already unstable social order. The suicide bombs that killed over 40 people in Beirut in November on the day before the Paris bombings attest to this instability. Germany has sent food and medical packets to all three countries.

### **Needed: A partnership with the United States**

Clearly this will not be enough. Germany will need to take a more robust leadership role in global affairs, in this case, combatting the causes of the refugee crisis by pursuing a broad strategy to help end the Syrian war. In exercising its “civilian power,” Germany has launched diplomatic initiatives to make its “neighborhood” safer by helping to restore state power and stability in Syria, Iraq, Afghanistan, and Libya. One of those initiatives is refocusing German Development Policy to assist in creating “safe areas” in Africa and the Middle East, where refugees can be repatriated. Development funds would be used to use those funds as leverage, to persuade these countries to agree to repatriation. Thomas de Maizière, of course, would like to threaten the reduction of foreign aid in order to pressure these states to take in refugees who don’t meet the criteria for asylum.

Defense Minister Ursula von der Leyen has said that success against ISIS required the cooperation of Syrian militias who knew the territory. Her hope was that these local forces could be persuaded to negotiate a cease-fire and cooperate in turning against ISIS; Germany would again play the role of a “civilian power,” an “honest broker” facilitating such talks.

A first step in demonstrating solidarity with its allies in the campaign against ISIS, with the aim getting to those negotiations, is Germany’s deployment of reconnaissance planes, refueling capabilities, and a frigate without direct combat in airstrikes.. This demonstration of military solidarity is an attempt to make good on its promise to assist France in its vow to destroy ISIS, made after the Nov. 13 terrorist attacks in Paris.<sup>24</sup> The German public, according to November opinion polls, supports this plan for “limited deployment.” 34% of the population polled would support air strikes, and 22% would even support the deployment of ground troops.

Germany will not be able to take on a robust leadership role alone. As Europe’s solidarity is threatened, freedom of movement is curtailed, right wing xenophobic parties are on the rise, and refugees continue to come, a new partnership with the United States on the refugee crisis is desperately needed. Germany’s willingness to join in a military campaign against ISIS is perhaps a bid for that partnership. For the United States, as for Europe, refugees not only represent a humanitarian crisis, they also represent a security challenge. If Europe continues to close its borders and if Turkey, Lebanon, and Jordan can no longer manage the flow of asylum seekers, both the United States and Europe will be faced with millions of refugees who can easily be radicalized by extremist, nihilistic groups.

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<sup>24</sup> Germany will also send 650 troops to Mali to relieve French troops battling Islamic extremists there.

Angela Merkel's political survival rests on Germany's ability to resettle refugees, convince its European partners to cooperate in the resettlement effort, find and develop "safe" areas for the repatriation of refugees who do not qualify for asylum in Europe, and invest in the stability of states in the global South where the root causes of the crisis can be found. Germany cannot successfully take on these tasks alone, even with the cooperation of its EU partner states. Its partnership with the United States has frayed in recent years, but that partnership is needed now more than ever. The United States can and must help alleviate the pressure on Europe by agreeing to resettle more refugees, and to partner with Germany and Europe in tackling the refugee crisis and its root causes.

## **Conclusion**

External crises, from the 5 year saga of the Greek debt crisis to a war on Europe's borders in Ukraine, to a defiant Russia, to a ring of fire in Europe's southern neighborhood, have arisen as a result of EU initiatives to expand its realm of competence in an ambitious accrual of power. But the EU has not developed the institutional strength required to avert crises and resolve them. And as the strongest European power, Germany has responded to the crises by openly embracing the role of greater leadership in Europe. But ironically, that leadership is constrained by the EU's institutional weakness. Therefore, when Germany has acted unilaterally in opposition to its partners, it has undermined European unity.

Germany has unabashedly taken the lead in managing Europe's refugee crisis. But the question is: has its agenda for a solution brought Europe closer together, strengthening European institutions or has it torn Europe further apart, thereby weakening them? Although the crisis is still evolving, what I have shown here is that Germany has followed its familiar pattern. Leading by example, Merkel began by taking in the most refugees within Germany's borders. Next, Germany successfully persuaded its largest partners to share the burden. Seeking European solidarity in the resettlement project, Germany led the effort to expand the EU's area of competence in migration, shifting its priorities from securing borders against the influx of refugees to the resettlement of asylum seekers among member states. The EU offered carrots in the form of financial aid for resettlement to all members; Germany, however, argued for a compulsory program of resettlement to be imposed on its European partners. In the face of strong dissent, this program was accepted, but only because it was subject to qualified majority voting, which required that dissenters acquiesce to the wishes of the majority. If the success of the program had depended on consensus and unanimity, it would have failed. As in the Greek case, in which Germany imposed a domestic economic policy on a fellow member state, this "stick," of mandatory resettlement quotas, while it may have won the vote, drove a wedge between the Eastern and Western members of the EU. If the agreement to resettle refugees had included a penalty for non-compliance, as Germany suggested, the wedge would have been even wider. The refugee crisis itself strained the bonds holding the European partners together. But compulsory quotas strained those bonds even further. The "coalition of the willing" may be much more effective in the effort to both dampen the refugee crisis in Europe and protect European solidarity.

European solidarity has been strained and its institutional weakness exposed by its two most ambitious projects, monetary union and freedom of movement. Both demand growing EU

competence—stronger rules and new institutions. Just as the euro cannot be a robust common currency without a transfer union, a banking union, and macroeconomic policy coordination, border-free travel within the EU will prove to be impossible without a common asylum policy tied to stronger external borders and an effort to alleviate the conditions that create refugees. Angela Merkel's statements suggest that she believes these tasks will not be achieved without German leadership.

What this case strongly suggests is that German leadership is constrained by its institutional *embeddedness* in European Union. These constraints have a twofold impact. First, the refugee crisis, like the euro crisis before it, exposes the weakness of those institutions as the EU has attempted to expand its competence without strengthening the structures required to do so. Second, because Germany is embedded in those institutions, its ability to lead is limited. And if Germany attempts to coerce its partners into behavior not mandated by EU institutions, it will face opposition and thus strain European solidarity. If Germany is to maintain European solidarity, its leadership must be exercised through example, persuasion, and incentives to cooperate. The use of its coercive power in Europe will only serve to undermine Europe's unity, which is already under strain. Furthermore, the refugee crisis is not just a European crisis; it cannot be solved within Europe's borders, no matter how strong those borders may become. It cannot even be solved on Europe's edges, in Turkey, Lebanon, and the camps of Jordan. The refugee crisis is a global crisis, with its roots in war, poverty, failed states, religious extremism, terrorism and even environmental degradation. Germany and the EU need the United States to become a full partner in managing this crisis and its roots. Now, more than ever, a "partnership in leadership" is required.