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# Ethics Beyond Borders: the nature of our responsibility towards the refugee population

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**Ethics Beyond Borders:**  
the nature of our responsibility towards the refugee population

Selma Khalil

Submitted in Partial Fulfillment of the Prerequisite for Honors  
in the Department of Philosophy  
under the advisement of Professor Helena de Bres

**April, 2018**

this is for my mother,

Sarah Chalabi,

a fearless force,

daughter of two broken nations,

a once stateless woman who fought to create a home for her family.

## **ACKNOWLEDGMENTS**

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To my father, my mother, my sister – I love you, I would not have been able to complete this journey without you.

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## INTRODUCTION

Throughout 2016, the UNHCR calculated that 20 people were forced to flee their home every minute of every day. As armed conflicts intensified around the world in countries such as Syria, Yemen, and Iraq, the number of forcibly displaced people reached a high of 65.6 million people by the end of 2016. This population size is equivalent to that of France's recorded population in 2018. While many express concern about this wave of displacement, the reaction from our international community does not match the need of those fleeing harm. In 2016, there were 2.8 million people waiting for legal confirmation of their refugee status. Only 16 600 were resettled that same year (United Nations High Commissioner for Refugees, 2016). While it is clear that we, as members of the international community, are not doing enough, there is a foundational question less easy to answer in regards to our current crisis: what must we actually do to help?

This thesis is dedicated to understanding the nature and foundations of our responsibility towards the refugee community. It does so in five chapters, each one tackling a specific question within the broader debate.

Refugees are among the most vulnerable people in the world. In thinking about what we owe them and why, it helps to first consider what our duties to the vulnerable are more generally. The first chapter explores three separate theories that argue for a strong duty to assist vulnerable people, including refugees, outside our own nation. I refer to Singer's positive duty to reduce suffering, Pogge's negative duty to stop fueling inequality, and arguments rooted in historical reparations. I conclude with a pluralistic approach and I argue that, regardless of which of the three are compelling, we have a strong duty to help the vulnerable of our world.

In chapter two, I move on to issues specific to refugees. It is often claimed that refugees deserve special treatment, as against other vulnerable foreigners, but this has also been challenged. The UNHCR defines a refugee as a person who, “owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership in a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such a fear, is unwilling to avail himself to the protection of that country” (United Nations High Commissioner for Refugees, 1951). In order to determine whether and why refugees are special, we therefore need to discuss the significance of persecution for the urgency and content of our duties. I argue that the UNHCR’s definition is insufficient, and that the term refugee-hood should also encompass those rendered stateless for causes other than persecution.

Must all countries accept refugees? In chapter three, I first examine whether there is a basis for unlimited migration (the “open borders” proposal), before establishing a set of justifiable criteria that nations can apply to permissibly limit immigration. I conclude that, even though some limits on immigration are permissible, all countries have a duty to engage in remedying the global refugee crisis.

How should the burden of refugee relief be distributed across nations? In chapter four, I identify the four principles I think are important to consider when distributing the responsibility to engage in refugee relief across multiple agents. These are capacity, communitarian ties, moral responsibility and causal responsibility. After outlining how these principles can be used to regulate assignment of responsibility, I employ them to assess the current regulatory system implemented in the European Union, the Dublin Regulation III.

Is the current refugee regime’s system of relief ethical? In the fifth chapter, I highlight the unique problems that arise from a central feature of the current system: the effectively

permanent nature of allegedly “temporary” refugee encampments in many nations. I identify some of the legal and moral violations that residents of camps endure throughout their stay. Given that the Global North actively deter the stateless from entering their borders, thereby keeping them in camps located throughout the Global South, I claim that they are at least partly responsible for the violations that refugees face in these encampments.

Together, these five chapters paint an alternative manner in which we, as members of the international community, should be approaching the refugee crisis. Highlighting the significant gaps between current practices and this ideal will, I hope, encourage the international organizations, nation-states, and individuals alike to help the vulnerable of our world, rather than hold them at arm’s length with the disdain we do.

The idea that we, relatively affluent members of the international community, must do something to help the extremely vulnerable people of this world is highly intuitive. The nature of that duty however, is unclear. This chapter seeks to address this specifically by exploring three theories that each argue for a strong duty to assist vulnerable people internationally, amongst which are refugees. I first discuss Singer's positive duty to alleviate suffering, as long as it does not excessively encroach on our lives. Then, I outline arguments rooted in historical reparation which attribute historically colonial and imperial nations to a strong duty to address the inequality of historically colonized regions. Finally, I explore Pogge's claim that wealthy and powerful states have a negative duty to help those disadvantaged by our global order.

### 1.1 Duty to alleviate suffering

One prominent theory in this field derives the obligations that we have to assist the vulnerable from the assumption that suffering is bad, and that we must work to prevent what is bad. Thus, we have a duty to mitigate the suffering that comes from situations of extreme vulnerability.

Peter Singer outlines this argument in "Famine, Affluence, and Morality", where he states that the affluent should give as much resources as possible to the global poor, up until the point where giving more would begin to cause serious suffering to themselves and their dependents. As stated above, the argument rests on the assumption that suffering and death from lack of food, shelter or medical care are bad. We have a positive duty to eradicate such

obstacles, if doing so is within our capacity. He also argues that this duty extends past geographical proximity. If I live in the United States of America, but someone is suffering in Lebanon, the fact that I am so far away from the suffering person does not diminish my duty towards them. Given the moral weight of alleviating suffering, Singer redefines aid as a duty, versus an act of charity or generosity.

An important component of Singer's rule is that the giver cannot be asked to sacrifice her own life or basic wellbeing to alleviate someone else's suffering. Rather, he claims that the affluent are morally obligated to sacrifice possessions unnecessary for their survival, such as non-essential money, objects, resources, time, to help the suffering. And yet, sacrificing all of these possessions to the level that Singer deems adequate remains excessively demanding. Let us say that Waleed lives with his older brother Ali, who has early onset Alzheimer's. Their parents were very wealthy, so Waleed has no financial worries. And yet, even without this burden, it would still be demanding for Waleed to be Ali's full-time caretaker: the more severe Ali's situation would be, the more time Waleed would have to spend by his brother's side to tend to his needs, meaning that he would be less likely to do the things that would otherwise add meaning to his own life. He would not be fostering friendships and relationships, nor would he be accomplishing projects he would find interesting and important. Even if Waleed is not in a life-threatening position or experiencing the same level of suffering as Ali is, the sacrifices he would have to make in order to care for his brother are still substantial. Giving to alleviate world suffering to the level that Singer finds sufficient could demand comparable sacrifices from the part of the donor. Just in that we could not demand of Waleed to become Ali's full-time caretaker, we could not ask affluent people to help all those who need it to the point where they reach the threshold.

Nevertheless, this point does not discredit Singer's argument for helping vulnerable people as a whole. It remains consistent with the claim that we have a positive duty to help those who are suffering, given that suffering is bad, and that affluent people within the international community have the capacity to mitigate it. The previous discussion simply highlights that the extent to which we must help the vulnerable should be limited by our personal prerogative to enjoy certain goods within our lives, such as meaningful relationships, or fulfilling projects which are central to us. We ought to accept the core of Singer's proposal, according to we have a positive duty to address the suffering of vulnerable people within the international community, as long as this does not excessively encroach on our lives.

## **1.2 Historic Reparations**

Singer argues that all of those who have the capacity to alleviate global suffering have the obligation to do so. Another school of thought attributes responsibility more narrowly to those who had a historical role in causing global suffering and vulnerability. In particular, theorists argue that colonial exploitation in historically colonized nations has affected their development in ways that the citizens of colonizing nations have a duty to redress. In this section I will explore the effects of imperial and colonial history on the contemporary development of colonized nations. I will then examine the argument that views historically colonial and imperial powers as responsible for the contemporary vulnerability of historically colonized populations.

Today's international order is framed in a way that favors certain, predominantly Western, countries, a large number of which have a colonial and imperial history. France and the United Kingdom, for example, have historically fueled their success through the exploitation of other nations, such as Algeria and Pakistan. However, debate exists over the question of whether colonialism had a detrimental effect on the economic growth of colonized nations.

It is clear that colonialism had an important social, political and economic impact on colonized nations. For instance, a comparative analysis of the effect of Spanish, French, and British colonialism on the growth of colonized African states showed that the manner in which economic control was applied in these colonized nations shaped their future growth (Grier, 1999). Grier reports that the British had a relatively decentralized colonial approach: the British government had control solely over the constitution and foreign relations, but left issues of domestic policies and internal budget to colonial legislatures. The constitutions they drafted were also tailored to each indigenous population, and they applied a free trade policy. Comparatively, Grier reports, the French had a more centralized way of ruling. Unlike the British, they had a specific governmental unit that was to oversee the colonial empire, and restricted their colonized lands' engagement in international trade. Similarly, the Spanish empire also took a very mercantilist and protectionist approach regarding colonial trade. Grier's study shows that French ex-colonies perform significantly worse when it comes to economic growth as understood by GDP compared to the British ex-colonies (Grier, 1999). This specific study highlights that the ways in which colonizers ruled their respective regions effected, at least partially, the ways in which they thrive in our contemporary global order. However, this does not necessarily mean that the effect was bad, in all or any cases.

On a “diachronic” conception of harm, colonization can be said to have harmed a colony if that colony was in a more advantaged position before colonization than they are after colonization (Pogge, 2005, p. 4). It is difficult in many cases to detect economic harms from colonialism if we adopt this conception. Global poverty, in historical colonies and elsewhere, has decreased over the years, at least partially, by virtue of the Global North’s economic development. Such a perspective would thus not allow us to adequately identify the “wrongness” in colonialism within economic terms. However, it is important to note that, however the economic impact is assessed, colonialism and imperialism had very troubling non-economic effects. Practices that are intrinsic to local culture – such as language, religious practices, or artistic expression – were oftentimes forbidden, or erased, so as to ensure full immersion and assimilation in the colonial culture. For instance, in African French colonies, students attending French colonial schools were required to speak French, and forbidden to speak any other vernacular language (Grier, 1999). In addition to forcing locals to interact with and assimilate to colonial culture, colonial powers also determined which local people were allowed to engage within such a culture in which ways (Grier, 1999). As a result, disadvantaged people were pushed to forgo their own culture, but did not have the chance to be fully assimilated within the colonial culture either, leaving them in a state of alienation and isolation. These points show that colonialism can harm members of colonial nations within a diachronic perspective when the cultural loss of colonized regions is considered.

An alternative “synchronic” conception of (economic) harm allows us to assess the economic effects of colonialism in a way that shows its unethical nature more clearly (Pogge, 2005). According to the synchronic conception, colonization can be said to have harmed a colony if that colony is in a less advantaged position now than they would have been under an alternative, fairer form of interaction with the Global North. Under French colonial rule, for

example, colonized countries could only sell their goods to France, use French ships, and alternatively import from or through France (Fieldhouse, 1966, p. 306). A substantial profit coming from this international trade went to France. If France had not skewed its colonies' trade in its favor, significantly more of the surplus value of trade would plausibly have gone to the colonies themselves, and locals could have used it to invest in further economic activity. Colonization thus plausibly undermined, at least partially, the economic development of colonized countries. To take another example, the British economy was highly dependent on the gold found in the Gold Coast: Ghana's resources were drained, hindering its economic development, while Great Britain was able to establish itself as a world power by benefiting from these resources. This translates to our contemporary international order, where the United Kingdom is still a powerful country, while Ghana remains underdeveloped and thus vulnerable. These examples show that colonialism can also be detrimental to economic development when we apply a synchronic comparison.

The above discussion suggests that the stark inequality between some Western developed countries and some developing nations is tied to the gross exploitation the affluent nations performed in the past. The success of these nations was, at least partly, at the cost of others' development. This situation, where an agent A benefits from something while agent B pays for the cost of that benefit, is generally considered to be unfair.

To illustrate, let us consider that my neighbor makes the best jam in the city, and I am the only jar-manufacturer in the region. Even though I know that there is a high demand for good jam in our neighborhood, I have complete monopoly over the jar-making industry and thus can demand the prices I want. Out of greed, I chose to buy the jam at a price sufficient for my neighbor to break even, but then sell the jars of jam at a very high price to the public. The large profit-margin that fuels my success thus comes as a byproduct of the jam-maker's

exploitation, since I am insufficiently compensating her. While the profit margin that comes from selling the jars of jam is a product of both the jars and the jam, I am not distributing our profits proportionally to the labor the jam-maker has dedicated to her product. The tedious labor she must apply to make the jam is insufficiently compensated. Given that I chose to purchase the jam at a low price and keep the high profits for myself rather than sharing them more fairly, I am responsible for the burden imposed on the jam-maker. While I did not force the jam-maker to sell me the jam, my monopoly on the jar industry made it so that it is her only option. Therefore, even if this is not directly coercive, the jar-maker is exploiting the jam-maker. Similarly, global inequality fits within this unjust scheme where agent A – historically colonial and imperial countries – benefited from exploiting agent B – historically colonized nations – but left B to pay for the cost of such benefits. If we apply the same logic as with the jar-maker example, then historically colonial countries are responsible for the hindered development of historically colonized countries, and it becomes their duty to rectify contemporary disparity. This historical tie between nations thus highlights the duty of specific nations towards others' underserved people.

A first problem with such an argument hinges on the wrongdoer's identity. In the example of the jam-maker, the jar-maker is clearly the perpetrator and the one that should be held responsible. However, the wrongdoer is not as easy to pinpoint in the case of colonialism, because the exploitation is an act of the past. Is it ethical to hold today's generation responsible for exploitative actions taken by others many decades previously? Recognizing that today's generation benefits from this past exploitation would push us to answer yes. Let us think back to the example of the jam-maker. Rather than spending the money I gain from selling my neighbor's jam on myself, I save it so that I can give it to my eldest daughter. In this scenario, my daughter benefits from my exploitation. Intuitively, given that she has benefited from

something without paying for its cost, she is also responsible for my neighbor's disadvantage. What happens when I die? If the daughter is aware of this money's origin, then it is intuitive to say that she is responsible for costs that I externalized and my neighbor was forced to internalize. (But what if my daughter was unaware? We shall address the worry regarding consent later in this section.)

The next logical question to ask is how we define such a benefit. Is someone responsible for the past actions of their predecessors if they lack a monetary gain? If we return to the example, I have established that the daughter that accepts this money while knowing its origin is responsible for the disadvantage it has caused my neighbor. But if I have a younger daughter whom I neglected and chose not to give any share of this money to, then it seems unreasonable to say that she would be responsible as well. Similarly, there are large economic inequalities within developed nations. It seems unfair to attribute the responsibility to the entire collective, given that poor people within a nation are clearly not benefiting (much or at all) from past colonial / imperialist endeavors. It would be more ethical to hold the individuals directly involved in past exploitation responsible, and those directly benefiting from it. However, even in this position of attributing individual responsibility, we encounter certain problems. What of the families who were wealthy because of these past endeavors, but have in the meantime lost everything? Let us say that my daughter lost all of the money she has inherited from my jars of jam to her gambling addiction. Is she still responsible? What if she lost that money and all of her other resources, rendering her in an even worse state than my neighbor?

The above discussion suggests that defining benefit from past exploitation in terms of direct monetary gain raises problems when trying to define responsibility. But there are other ways to define the benefit that can stem from historical exploitation. I argue that living within

a developed country offers an advantage to all its residents, regardless of their socio-economic status. For example, poverty in the France is different from poverty encountered in Sudan, given the fact that France has an established economy, infrastructure, and welfare system. If, as a French citizen, I lose my source of income, I am still paid a stipend from the government for a period of time that would allow me to make ends meet while I find another job. If I lose my home, there are shelters and food services available to me. Regardless of my economic status, I have access to healthcare, credit, education, and a center that helps residents find employment. All of these benefits can be attributed to the country's strong infrastructure and welfare system. Poverty in Sudan, however, looks different. A Sudanese with no source of income would not have access to all of these benefits as I would. Simply living within a developed nation with a strong infrastructure and welfare system is thus a benefit in itself, regardless of how much you have monetarily benefited from past instances of exploitation. If we consider benefit as such, I would be more inclined to attribute collective responsibility to the citizens of an affluent, historically colonial power because they would all be directly benefiting from these past endeavors.

This situation is analogous to principles of corporate liability. Similarly to nations, corporations are collectives that can be held liable for their actions: for example, shareholders can be held responsible for actions taken by current, as well as previous, employees. However, a potential difference arises here. Shareholders purchase shares with the knowledge that the company's actions – past or present – will have repercussions on its prices. In addition, the act of purchasing a share is one sought out by the shareholders themselves: normally, they consent to doing so. In contrast, consent on the part of a citizen towards the country's action is less clear (Posner & Weisbach, 2010). The question then arises whether lack of consent suffices to exempt an individual from a collective form of moral responsibility.

To answer this objection, I will examine Avia Pasternak's work on collective responsibility in democratic liberal countries. Pasternak argues that a democratic group can be collectively morally responsible for the actions of their representatives (Pasternak, 2011). To justify this, Pasternak identifies the minimal requirements for members' moral agency within an actionable group: (1) that they are allowed to reflect and deliberate on their group's identity, and (2) are capable of collectively changing their group's behavior. Democratic groups satisfy these conditions, because they have internal decision-making structures where citizens can deliberate, make certain decisions, and act upon them to reach agreed upon goals. As a result, they are a conglomerate that can have collective moral responsibility. The question then follows – are individual citizens responsible for their representatives' decision? According to Pasternak, this would depend on whether a significant percentage of the collective authorized the government's actions, and the extent to which it has influence over ongoing policy decision-making.

This account, if correct, shows how democratic collectives can have moral responsibility for the actions taken by their representatives, even if some individuals in the collective do not consent to those actions. However, it might be argued that Pasternak's conditions are not satisfied in the case of ex-colonial nations. The current group that makes up historically colonial and imperial democratic liberal nations did not have a significant percentage of the collective authorize the government's past actions, nor did they have an influence on that government's policy-making. Nevertheless, I would argue that by choosing not to repair for the exploitative acts while still benefiting from them, the population under democratic liberal nations are at fault and can be held collectively morally responsible for it.

While the people of previously colonial or imperial democratic liberal nations are not responsible for the wrong of exploitation itself, in that they do not fulfill the minimal

requirements set to be collectively morally responsible for that specific act. However, they continue to benefit from living in a country that has utilized these stolen resources to develop itself. As such, they benefit from the exploitative act, and choose not to repair for it. Collective moral responsibility holds because they, as citizens of democratic liberal countries, are capable of reflecting on and changing the country's modes of interaction with others.

### **1.3 Pogge's negative duty**

I have examined above two different arguments for why citizens of affluent countries should help vulnerable people in other countries. In the first part of this chapter, I argued that we have a duty to help the suffering of the world as long as it does not excessively encroach on our own lives. In the second part, I discussed how residents of previously colonial, affluent countries have a duty to demand that their nations repair for the consequences of their historically exploitative acts. A third and final argument that I shall explore is the duty of affluent countries engaged in our contemporary international order to help those who are disadvantaged by this same system.

It will be helpful here to introduce an important distinction. Our duties to prevent or alleviate vulnerability come in two broad forms. One is a positive duty to provide the resources that others need in order to satisfy their basic needs. Consider a situation where I, an affluent person, come across a homeless individual. Her access to shelter, food and water are clearly compromised and I am in a position to help secure one, or all, of these goods for her. The second duty is our negative duty to not infringe on someone's rights. In this situation, I have

the negative duty to not take all the worldly possessions of an individual, rendering them homeless.

Many people do not consider our positive duties to be either extensive or urgent. To refer back to the above example, rarely do we find a strong sense of responsibility towards homeless people. Societies will rarely reprimand an affluent citizen for not donating to charities catered to helping homeless people or directly giving them food or money. However, directly causing another's suffering is something that we do frequently morally reprimand. We seem to have a greater sense of obligation to respect our negative than our positive duties. Singer roots his argument to alleviate suffering in our positive duties. On the other hand, Pogge argues in *World Poverty and Human Rights* that our duties to help the vulnerable are actually best framed as negative duties (Pogge, 2005). We need to examine whether we are perpetuating world poverty, versus simply letting it happen without actively attempting to prevent it. One advantage of this argument for those concerned about refugees is that, if negative duties are in fact weightier than positive duties, the argument will result in a stronger moral case for assistance.

Today's world is characterized by radical inequality: it includes instances of both extreme vulnerability and extreme privilege. According to Pogge, such radical inequality is unjust and a violation of our negative duties toward the global poor. His approach depends on three claims: (1) the affluent and the poor share a social institution which (2) is controlled by the better-off and imposed on the worse-off and (3) could be replaced by a feasible alternative that would erase extreme vulnerability, but that the better off choose not to implement (Pogge, 2005). Pogge defines this shared institution – or global order – as a system comprised of rules outlined by formal treaties and conventions and informal expectations which cover issues such as trade, human rights, territorial sovereignty, and foreign policies. In

light of the consequential impact of such major institutions as the United Nations, the World Trade Organization and the International Criminal Court, along with the many other important sites of contemporary transnational governance, I would argue that we do have a shared global order (i.e. that claim 1 is true).

Claim 2 – that the institutions that make up this order are controlled by the better-off, and imposed on the worse-off – is also plausible. A first step to validating this claim is recognizing the historical events that played into shaping our contemporary international community. The founders of the major international institutions were primarily developed countries. The United Nations, for example, was first created after the Second World War by and for the four major Allies: the United States, United Kingdom, Soviet Union, and China. The same goes for the Bretton Woods institutions that are the foundation of the modern international economy. Moreover, the current workings of these institutions are set up in a way that favors rich over poor nations. If we look at the internal structure of the UN, the powerful Security Council is comprised of five permanent members, China, France, Russia, The United Kingdom, and the United States. Similarly, the internal dynamics of the WTO are skewed in favor of these and other wealthy countries. In a report on the WTO negotiations that occurred in Doha, the authors describe how developing countries were put at a clear disadvantage throughout the event relative to developed countries. Developing countries had one, or even no advisors, while nations such as the USA were allowed five. Major players of the negotiations discussed and changed the premises of the deals under consideration without adequately informing the other players involved, making it difficult for them to intervene, or give an informed vote (Jawara & Kwa, 2003). There is unquestionably a small group of countries that have developed our current global order, and who continue to have a stronger voice within this system than others.

Pogge's third claim ties contemporary poverty to our contemporary global order, and stresses that inequality as we know it is not necessary: there are ways we can actively change it. In his symposium on *World Poverty and Human Rights*, Pogge mentions the way in which international systems are framed so as to hinder the disadvantaged's growth. He uses the World Trade Organization (WTO) as an example, where we find asymmetrical protection of markets, which then affects exportation opportunities for poor countries. Another detrimental facet of our current system is the rigidity of intellectual property rights protections within poorer states, who do not have the capacity for independent research, development and manufacturing of certain crucial technologies developed in industrialized nations (Pogge, 2005). These two examples are extremely costly for poor nations, and thus hinder their economic growth and infrastructural development, and yet they are easily reversible without excessive damage to the Global North.

To illustrate his case, Pogge isolates two additional features in our international legal order that we could instantly revise in order to mitigate global inequality: the International Resource Privilege and the International Borrowing Privilege (Pogge, 2005). The International Resource Privilege refers to a recurrent practice where the agent controlling a population is authorized to sell their nation's resources. On one hand, this allows for dictatorial entities to have full control over the benefits of their nations' resources. At a more systemic level, granting such control further deters such agents from implementing a more democratic political structure where they would be forced to distribute these benefits across the national population. The same agents who have control over a nation's population also have the privilege to borrow from the international community on behalf of the country – this is the International Borrowing Privilege. As such, individual players can take loans to further their own interests, such as anchoring their control over their people. A substantial advantage of

this practice is that these players are not responsible for repaying what was borrowed in the name of the nation, successor governments are. Dictators and other controlling political agents can thus divest themselves of a loan's cost while fully accessing its benefits.

These two practices further global inequality because they allow for particular agents of a nation to amass an excessive amount of wealth and power comparatively to the rest of the population. The Global North fuels this harm by continuing to either sell or lend to those in control of populations regardless of how they redistribute their resources. Here, there is a clear way that wealthier states can end the inequality caused by these two practices without absorbing costs of aid. A wealthy nation X would not need to distribute its own resources to lessen the poverty in country Y, it can simply regulate its transactions with Y so that any resulting benefit is directed at lessening said poverty. X can, for example, set requirements that ensure that, if any benefit comes from Y's government selling its national resources or borrowing money, it is distributed across Y's population.

Pogge claims that making these and other reforms would come at a very low cost to the Global North (Pogge, 2005, pp. 6-7). He argues that by failing to make these adjustments to the global order, which would cause the affluent only minor burdens while removing a lot of suffering, the affluent violate their negative duty not to harm the global poor. (The conception of harm he is using here is the "synchronic", not "diachronic", conception that I mentioned in the previous section.) I find this argument important and persuasive. However, there are two main objections that we need to defend it against: one against Pogge's main ethical claim, and the other against his main empirical claim.

Pogge's argument that the affluent have a duty towards the vulnerable is rooted in the idea that the Global North is violating its negative duties towards the global poor by maintaining an unjust system. To reiterate, a situation is harmful from a synchronic perspective

if there is an alternative situation available that would be better for the less advantaged party. In this situation, the Global North is at fault because it maintains inequality, as opposed to changing its system so that it allows for (more) equal development across all countries. Some argue, in response, that this synchronic conception of harm is implausible. Are we *hurting* someone simply by not ensuring that they are better off? The Global North might be failing to select a better situation, but that's a violation of a positive duty, if anything: it's different from actively harming the Global South, and thereby violating a negative duty.

However, it is important to distinguish between (1) expending additional effort to ensure that an external group is better off, and (2) changing one's behavior to stop hindering another's development. Let us say that Soumaya and Kenza each live close to two wells of water. Soumaya has the equipment to use both, while Kenza has tools to draw water out of well 2, but not well 1. For this example, we shall grant that you can only take out a limited amount of water from each well a day, and that Kenza is living with her two children.

I shall start by tackling the first scenario (1). Soumaya takes water from well 1, and Kenza from well 2. Recognizing that Kenza needs more water, and that well 1 is greater than well 2, Soumaya chooses to exchange her equipment with Kenza's so that she may draw from the second well. Here, Soumaya is expending additional effort to ensure that Kenza is better off. In this situation, it is unclear that Soumaya is harming Kenza if she chose to keep her equipment and did not ensure that Kenza is better off. In this scenario, Soumaya is not violating her negative duty if she did not give her the equipment to use well 1.

As for the second scenario (2), let us assume that both Kenza and Soumaya draw from well 1. Given that there is a limited amount of water that one can take from a well, if both take from well 2, then they each have to take less than they otherwise could. It is noteworthy that Kenza needs more water than Soumaya does, since she has children to care for. Soumaya has

the option to draw from well 1 instead. If she chooses not to, she is performing an act that hinders Kenza's well-being: unlike the previous scenario, the manner in which Soumaya draws water is not benign. She is violating her negative duty by choosing to draw water from this specific well even though she knows it creates an unnecessary burden on someone else. Similarly, it is not that Pogge demands the Global North to change neutral actions into positive ones that instead ensure the Global South's development. Rather, he is asking wealthy Western states to replace transactions that perpetuate inequality into more positive ones. Therefore, they are still violating their negative duty by choosing to maintain an unnecessarily unjust system.

A second counter-argument to Pogge's argument is rooted in his empirical claim that small changes implemented by the Global North can make a difference in the global order. While reform of the International Borrowing and Resources Privileges might contribute to minimizing inequality, it is unclear how much of a reduction in global poverty it – and the other reforms Pogge mentions – will cause. However, I will note that, regardless of the scale of impact of such changes, wealthy Western states remain in a position where they can do *something* that will at least *partially* mitigate global inequality. By virtue of continuing to do the things that promote inequality – however impactful these actions are – these nations are still at fault.

#### **1.4. Conclusion**

In this chapter, I have discussed three influential arguments for a duty to help the vulnerable of our world. According to Singer, we have a positive duty to help reduce avoidable

suffering if doing so does not cause us to experience a morally comparable situation. The next duty I explored is rooted in historical reparations: historically imperial and colonial nations have a special responsibility to alleviate the inequality caused by their exploitative endeavors. Finally, according to Pogge, wealthy countries have the negative duty to help those disadvantaged by our contemporary global order.

I have argued that each of these arguments, when properly clarified and qualified, ground a strong duty to assist vulnerable people in other countries. I will take a pluralistic approach moving forward, and assume that each argument succeeds. However, most of what I argue in the following chapters will hold, even if only one or two of the above arguments are compelling. In my view, the case for a duty to help the globally vulnerable is very strong, whichever of the above routes one endorses.

## CHAPTER 2

In the previous chapter, I explored three influential theories according to which we have a duty to help vulnerable people in the world. I concluded with a pluralistic approach, according to which these many reasons to help underserved populations are each valid. The task now is to apply this more general analysis to the case of refugees in particular.

Refugees are among the most vulnerable people in the world, and each of the above arguments can be readily extended to them. The first theory would dictate our need to help refugees, who are undeniably suffering, based on our positive duty to alleviate suffering in general. The argument rooted in historical reparation places responsibility on colonial and imperial powers for the difficulties that nations who have suffered from these exploitative endeavors face. Historically imperial and colonial nations are thus responsible for the refugees coming out of such vulnerable states. Finally, since it is our negative duty to help those disadvantaged by our contemporary international order, we must help refugees because they are included in this disadvantaged population.

Nevertheless, several theorists have argued that additional considerations apply in the case of refugees that justify singling them out from other vulnerable populations for special treatment. In this chapter, I assess those considerations and their relevance, if any, for the ground and content of our duties toward refugees. I start by reiterating the UNHCR's definition of refugee-hood and its application in certain states. I then explore persecution as a particular form of harm so as to assess whether refugees should be granted a different type of aid than other individuals who are comparably vulnerable, but not persecuted.

## 2.1 Who is a refugee?

According to the 1951 United Nations Convention on the Status of Refugees, a refugee is defined as a person who, “owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership in a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such a fear, is unwilling to avail himself of the protection of that country” (United Nations High Commissioner for Refugees, 1951). The central idea here—the one which singles out refugees from other vulnerable populations—is “persecution.” But what is persecution, exactly?

In order to examine this, I will refer to the interpretation of the UNHCR’s Handbook by states that host a significant number of asylum seekers.<sup>1</sup> The Government of Canada, for example, has published a guide on the 1951 UN Convention, which discusses the difference between persecution and discrimination:

“Example of persecution:

- A flagrant violation of a basic right, such as denial of a fair and impartial trial, particularly when combined with unduly severe punishment, is usually considered persecution;
- A threat to life or freedom

Example of discrimination:

- Denial to individuals of promotion or access to post-secondary education are examples of discrimination, not persecution. The systematic denial to a group of promotion or access to post-secondary education, however, constitutes persecution;” (Government of Canada, 2013)

The German government, for its part, writes in section 3 of the Asylum Act:

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<sup>1</sup> I chose to do so predominantly because the Handbook itself is not very helpful when it comes to these terms. It states that there is “no universally accepted definition of ‘persecution’”, and that “it is not possible to lay down a general rule as to what cumulative reasons can give rise to a valid claim to refugee status. This will necessarily depend on all the circumstances, including the particular geographical, historical and ethnological context”.

“Acts of persecution within the meaning of Section 3 (1) must: 1. Be sufficiently serious by their nature or repetition as to constitute a severe violation of basic human rights, in particular the rights from which derogation cannot be made under Article 15 (2) of the European Convention for the Protection of Human Rights and Fundamental Freedoms;” and “Acts of persecution as referred to in subsection 1 may among others take the form of: (...) 2. Legal, administrative, police or judicial measures which are in themselves discriminatory or which are implemented in a discriminatory manner [...]” (German Ministry for Justice and Consumer Protection, 2016)

In both cases, we see that although both persecution and discrimination are forms of active, targeted harm, persecution must involve the violation of basic human rights, including the right to life. Discrimination can be considered persecution if it reaches a certain level of aggression, or is systemic in nature. Therefore, vulnerable people must be targeted to the extent where it is life threatening, or a violation of their basic human rights, for them to be considered refugees.

## **2.2 Persecution as a particular form of harm**

### 2.2.a. Active harm

Why think that active, targeted harm singles out refugees for special assistance? I will start by considering the significance of active harm, and then move on the significance of targeted harm more specifically. Generally, we are more inclined to think that those who are actively harmed have a greater claim on our help. For example, if Sabine is walking in the Champs Elysees, and crosses a homeless family begging for change, there is a low probability

that she will help them. It is just as unlikely that she will think it is her duty to help them or feel remorse that she did not, even though she does have the positive duty to eliminate suffering. Similarly, it is unlikely that others will reprimand her from abstaining to assist this family. However, if she were to come across a Muslim hijabi woman being assaulted, there is a very high probability that she will do her best to help this woman. Here, she feels that her duty to aid this particular person is greater. This feeling extends past the individual: others will also probably reprimand her for choosing not to help her if she does refrain from doing so in this situation. This intuitive response to suffering seems to persist in our society: we are more inclined to save those who are actively being threatened, versus those who are suffering due to more diffuse institutional or environmental reasons.

However, it is difficult to see what might justify this priority. The consequences of being a refugee and having one's negative liberties violated are very similar to the consequences of suffering from extreme poverty due to other causes. Oberman elaborates this argument in his article, "Refugees and Economic Migrants". He notes that, in general, the global poor "must cope with much higher rates of malnutrition, parasite infection, disease, infant mortality, and death in childbirth" (Oberman, 2016). The benefits that they are denied due to their economic position, such as health care, welfare support, education, right to movement, political agency, are striking similar to those that refugees, in their statelessness, cannot access. In addition, just like the case of persecution, economic underdevelopment and natural disasters can cause waves of internal as well as external displacement. Between the 1<sup>st</sup> and the 30<sup>th</sup> of September 2017, 30 000 people were displaced from Somalia due to drought (International Displacement Monitoring Center, 2017). The only difference between these situations is that persecution involves an active assault to one's basic rights, while natural disasters (and, more controversially, economic underdevelopment) are supposedly rooted in

chance. But if two different events lead to the same consequences, then should we not treat them equally? If Leila were to have a heart attack naturally, but Sarah was scared into having one, is Sarah more entitled to care because someone actively caused her suffering? From a consequentialist perspective, it would seem that given the fact that these three causes of vulnerability produce the same type of suffering, we should address them in the same manner.

Non-consequentialists will respond here that our duties are not solely determined by facts concerning consequences. They might argue that there is a crucial moral difference between vulnerability due to persecution and vulnerability due to underdevelopment or natural disaster. The difference lies in that the former involves the violation of negative duties (not to harm), whereas the latter involves the violation of positive duties (to assist). It is often claimed that negative duties impose stronger obligations on us than positive duties do.

David Miller expands on this topic in relation to the issue of human rights violations that concern us here. He argues that we have a positive duty to promote individuals' basic human rights, more specifically to "ensure that people everywhere have access to resources such as food, drinkable water, medical aid, and so forth. These are duties to act in beneficial ways" (Miller, *Reasonable partiality towards compatriots*, 2005, p. 73). We also have a negative duty to refrain from violating individuals' basic human rights, i.e. "not to assault or injure others, not to restrict the freedom of movement or expression without good cause, not to abuse them in ways that destroy their self-respect, and so forth. These are duties to refrain from acting in harmful ways" (Miller, *Reasonable partiality towards compatriots*, 2005). Miller then divides our duties related to mitigating violations of human rights into four sub-categories based on the weight and nature of these duties.

He identifies two groups to consider in such a situation, one being your local group, or people towards whom you have a certain relationship that would warrant special efforts for

protection. This includes our compatriots, friends, or family members. The second group is a global one, which includes any other person in the world not included within that local group. The strongest duty is (1) your negative duty to “refrain from infringing basic rights by our own actions” (Miller, *Reasonable partiality towards compatriots*, 2005, p. 74). Next in strength comes (2) the positive duty to maintain the human rights of those within our local group, followed by (3) the positive duty to prevent rights violations by other parties. This refers to instances of persecution, for example, in countries that are not our own. Finally, the duty with the weakest moral weight is (4) the positive duty to secure the basic rights of people when others have failed to maintain it. Here, Miller refers to those suffering from natural disaster, or famine for example, in countries that are not our own.

According to this account, the nature of the duty we have towards those belonging to the global group whose basic rights have been violated by other parties (3) is the same as those belonging to the global group whose rights have not been maintained (4): they are both positive duties. There is thus no difference in the *nature* of our duty towards refugees who correspond to group 3, and the vulnerable that are part of group 4. However, there still is a difference in urgency that is noteworthy: our positive duty to prevent rights violations by other parties (3) takes a precedent over our positive duty to secure others’ rights.

I endorse Miller’s conception of our various duties within these four scenarios. Given the similarities in the nature of our duties towards refugees and other vulnerable people, it is not legitimate to conclude that there is a difference between refugees and other individuals in similar levels of vulnerability. This is because refugee-relief is not a negative duty, but rather a positive one. Therefore, we cannot differentiate between refugees and those other in similar levels of vulnerability based on the nature of our duty towards each group.

### 2.2.b Targeted harm

I have discussed the special significance of active harm by appealing to the moral difference between negative rights and positive rights. I now want to turn to the special significance of targeted harm in particular. Another moral reason for thinking that the case of refugees is special concerns the types of considerations on which persecution is based. Those considered refugees under international law are persecuted on the basis of a limited set of specified “protected grounds”: race, religion, nationality, membership in a particular social group or political opinion. Lister stresses that these grounds are important in that they “cover aspects of our lives that are, in many ways, central to our identities – they pick out features that we cannot change, or should not have to change” (Lister, 2012, p. 23). If I were persecuted because I wear a red shirt, then that is easily remediable – I simply would stop wearing this red shirt, and it wouldn’t significantly cost me to do so. On the other hand, my religious affiliation or political value is intrinsic to my values and sense of self: I have the right to identify myself to either group within these categories, and thus I have the right to demand of the state to protect these components of my person. Similarly, there are components of ourselves we are incapable of changing, such as race, nationality or membership to a particular social group. Given the importance of these characteristics, any assault in their name is extremely threatening, and renders me extremely vulnerable.

In addition to the vulnerability that comes as a result of discriminatory acts, there is another reason why we consider them to be particularly morally abhorrent. If I, a Muslim woman, were walking in the city with a group of friends, and walked past a man who yelled islamophobic slurs at me, I would not necessarily be in a position of vulnerability. If that man is alone, and I am surrounded by friends I trust to defend me, I am not physically vulnerable.

However, even if he did not put me within the state of extreme vulnerability I previously discussed, this act remains an unethical one. Instances of hate crime, or discriminatory acts, are considered to be seriously wrong. What about this sort of discrimination is wrong? Discrimination violates the equal entitlement of every person to basic respect and concern, regardless of their membership in a social group. It is an insulting, unjustifiable assault on the dignity and value of the person discriminated against and is deeply problematic for that reason, independently of its consequences on the person's life.

In the previous sub-section, I discussed why we should consider targeted harm to be wrong. How does this discussion affect our duties to help refugees? Lister admits that in some cases, groups other than refugees can suffer targeted harm. He writes that if aid is denied to individuals who suffer from poverty due to economic underdevelopment or natural disaster on the basis of protected grounds, then those cases too can be interpreted as a form of persecution. However, in general, Lister believes that we can justify singling out refugees from the majority of the global poor for special priority on the basis of their distinctly persecuted status.

There are two reasons to reject this claim. The first is empirical. In many nations, not just some, much of the economic inequality is linked to at least one of the mentioned protected grounds. For example, a study conducted by Vani Borooah showed that “one third of the average income/probability differences between caste Hindu and (untouchable caste)” is due to the discriminatory treatment towards this group (Borooah, 2005).

The second reason is moral. One of the reasons I gave above for considering persecution wrong—our inability to change certain basic facts about ourselves—extends more broadly to cases that don't involve persecution. Economic status and nationality are

components of our personhood that are either very difficult, or impossible to change. If an individual resides in a country with very poor infrastructure, she could suffer the consequences of a natural disaster, such as drought, and live in famine. Is that any different than not having access to food due to one's race or religious affiliation? All three are not facets that one can, or should, change. Similarly, many people have little if any choice over their economic status, and this has a huge effect on their life prospects and ability to withstand everyday economic pressures and natural disasters. Those who have the means oftentimes have access to healthcare, shelter, food by virtue of their affluence, while those who are poor will not easily acquire these because they cannot afford it.

Nevertheless, it is relevant to highlight that those subject to targeted harm experience a violation of their dignity. I acknowledge that the harm they experience is related to a core part of their personhood, and believe that it takes a particularly abhorrent dimension that is important to recognize and understand. However, I do not think this difference is substantial enough to justify treating differently the persecuted and non-persecuted who experience the same level of vulnerability.

### **2.3. Practical considerations**

An alternative reason to think that refugees are special is practical rather than principled. This concerns the specific type of aid that can be provided to them. As stated by the UNHCR, a refugee is a person “outside the country of his nationality [who] is unable or, owing to [...] fear, is unwilling to avail himself of the protection of that country”. By virtue of this persecution, such a person is most unsafe within her nation of origin. Here, the only type of aid that would be beneficial to her is one that replicates within another country the benefits

that come from citizenship. In the case of vulnerability that isn't due to persecution, on the other hand, there are other forms of "in-place" aid that can help. There are many national and international efforts to mitigate situations of extreme vulnerability that involve building domestic infrastructure in the nation where this occurs. To give just two examples, the Development Credit Authority (DCA) within USAID used \$695 million in 2015 in efforts to combat extreme poverty by promoting small business across 23 countries (U.S. Agency for International Development, 2018). Oxfam America has spent \$21, 266, 000 in programs geared to "Saving lives: Emergency response and preparedness" (Oxfam, 2017, p. 14) . There are efforts to build infrastructure in underdeveloped countries, which helps relieve extreme poverty and increases nations' capacity to face natural catastrophes. Since there are alternative forms of aid for other situations of vulnerability, this argument goes, refugees would warrant singling out for special treatment.

However, it is important to note that this argument depends on the claim that those suffering from natural calamity or lack of subsistence can be effectively helped when they remain in their countries (Oberman, 2016). There is in fact growing skepticism of the efficacy of foreign aid in helping vulnerable populations. In "Can Foreign Aid Buy Growth?", Easterly argues for the inefficiency of foreign aid in stimulating economic growth in vulnerable countries. In a striking figure, he shows that while aid in the African continent has more than doubled, the growth per capita of African countries has gone from 1.75% to 0.00% between 1970 and 1999 (Easterly, 2003). A second layer of aid criticism rests in the intention of countries involved in foreign aid, which trickles down and affects the ways in which it is distributed. The World Economic Forum cites Angus Deaton, and his claim that "the United States gives aid (...) to support our strategic allies, our commercial interests or our moral or political beliefs, rather than the interests of local people" (Swanson, 2015). These facts

highlighting the inefficacy and distortions of foreign aid are all the more worrying because situations of radical poverty or natural calamity result in extreme, life-threatening vulnerability. According to the UNICEF, one person dies of starvation every 3.6 seconds today (United Nations International Children's Fund). A substantial percentage of the global poor do not have the luxury of waiting for the long term effects of foreign aid and domestic infrastructural development: they require an immediate response. Here again we see that there is no general difference between those who are vulnerable due to endemic poverty and natural calamities and those who are vulnerable due to persecution: in both cases, in-place aid can be insufficient.<sup>2</sup>

In this chapter, I have highlighted the similarities between persecution, of the sort that refugees face, and other situations of extreme vulnerability. I first examined the potential consequentialist difference between the persecuted and the other types of vulnerable people, and showed that both lead to similar kinds of suffering. I then showed that targeted harm is not exclusive to the persecuted—other forms of vulnerability, connected to systemic poverty or natural calamities, can also be tied to protected grounds—and that at least one of the moral reasons to be concerned about targeted harm (i.e. inescapability) also extends to cases of non-targeted harm. Finally, I have shown that in-place aid can be ineffective in situations of extreme vulnerability that don't involve persecution.

I conclude from all of this that the UNHCR definition of “refugee”—restricted as it is to cases of persecution—is overly narrow. In what follows I will therefore endorse the broader definition advocated by the African Union, which states that:

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<sup>2</sup> While there is no in principle difference, this is not to say that there can be no practical differences in certain cases: there may be situations where a very vulnerable population would greatly benefit from in place aid, and it would thus be appropriate to engage in relief efforts by offering in-place aid.

« The term refugee shall also apply to every person who, owing to external aggression, occupation, foreign domination or events seriously disturbing public order in either part or the whole of his country of origin or nationality, is compelled to leave his place of habitual residence in order to seek refuge in another place outside of his country of origin or nationality ». (United Nations High Commissioner for Refugees, 1969)

In the previous chapter, I argued for a definition of refugee-hood that goes beyond persecution on the basis of protected grounds, and ultimately endorsed the African Union's more encompassing definition. I now hope to identify the duties nations have toward refugees, understood in this broader way. To set the stage, I will first explore the more general question of whether all individuals have the right to unlimited migration. (After all, if they do, there will remain no moral question about whether or not borders should be open to refugees in particular). After giving a negative answer to this question, I will then discuss the justifiable positive reasons a country has to limit immigration. Finally, I will return to the particular case of refugees and give two broad reasons a nation has to admit at least some refugees.

### **3.1. Unlimited migration**

One case for unlimited migration is rooted in the general right to freedom of movement. It would seem that unlimited migration is the only way to respect this, and thus that closed borders are a direct violation of a basic right. However, this line of thought falsely assumes that the right to freedom of movement holds for all and any space. Against this assumption, Miller raises the importance of respecting private property: even though I have the right to movement, I do not have the right to enter Julide's apartment without her permission (Miller, *Immigration: the case for limits*, 2005, p. 195). Julide would be justified in denying me entry to her apartment if she so wishes, and it would seem excessive to call such

an act a violation of my right to freedom of movement. Freedom of movement thus does not entail accessibility to all spaces. Instead, Miller suggests, it entails accessibility to a sufficient number of places. Applying this to the global case, it would seem that as long as an individual has a sufficient selection of countries they could immigrate to, their right to freedom of movement will be respected.

A second case for open borders rests on the general right to exit from a current state. The argument runs as follows: a person's right to exit implies the right to enter another nation, given that the right to exit is null without a right to enter. Hence, to assure that anyone can leave their country of origin or citizenship, we should also guarantee their right to entry. This argument fails for a similar reason that the previous one fails. The right to enter at least one other decent country where the immigrant's vital interests and rights are protected would be sufficient to secure their right to exit (Miller, *Immigration: the case for limits*, 2005).

Finally, distributive justice could be another reason to advocate for open borders. Since every person is fundamentally morally equal, living in a state of vulnerability by virtue of the resources and opportunity that your country of origin or residence is endowed with seems unfair. One way to remedy this inequality is to appeal to the open borders position, allowing for unlimited migration so that all may have access to states with many opportunities and resources. However, Miller argues for a different approach that would respect the fundamental moral equality of all without open borders (Miller, *Immigration: the case for limits*, 2005). He argues that the goal should be to secure everyone's basic human rights, rather than ensure equal opportunity for all, and that a given developed state can help secure the basic human rights of people from other countries without accepting them as immigrants.

### 3.2. Restricting immigration

I have argued so far that the three main reasons offered for unlimited migration fail. The general rights to freedom of movement and exit do not entail a right to demand entry to any country. And, even granting strong duties of distributive justice, a developed country can secure the basic rights of people from a vulnerable state through means other than accepting their emigrants. However, establishing that there is no justifiable right to unlimited migration does not address the validity of restricting immigration. I now turn to exploring the justifiable reasons for which a given country can limit incoming immigrants.

I shall start by explaining why it is not inconsistent, in general, for a democratic, liberal state to limit immigration on the basis of certain (restricted) reasons. To suggest that a democratic liberal state can limit incoming immigrants is to accept that a nation can ascribe a different set of rights and duties to various groups of people (insiders and outsiders). This might, on the face of it, seem inconsistent with basic liberal principles. However, on further reflection, since liberalism demands respecting the equal moral status of all people, and not equal *treatment* of all people, it seems acceptable. To illustrate, I can respect the equal moral status of my child and her friend when they are in my house, while nonetheless according my child a specific set of duties and rights. For example, she has a certain set of chores she must accomplish (duty), and she is allowed to enter the house whenever she pleases (right). In not granting this right to my child's friend, and in not requiring of her this duty, I can still respect that my child's friend is morally equal to my child. By analogy, it is compatible with the principles of a liberal state for it to treat prospective immigrants differently than it would its citizens, as long as it recognizes and respects their moral equality.

### 3.2.a. Restricting immigration on the basis of population control

One argument for general restriction of immigration rests on a concern with population control (Miller, *Immigration: the case for limits*, 2005). There are both national and global reasons for limiting population growth. At the national level, population size undeniably affects local lifestyle. For example, an increase in population size can cause an increase in traffic, competition, and congestion, and a decrease in accessibility of certain services. Within a democratic nation, it seems justifiable to say that citizens can demand a certain lifestyle, as long as doing so does not harm others. Therefore, if the people of a nation chose to limit immigration in order to control the local population and maintain a certain lifestyle, it would seem to be a legitimate policy to implement. It is important to note that this position justifies limiting incoming immigrants broadly, but not to discriminate between prospective immigrants.

Shifting now to the global level, we must note that there is an upward limit for population growth globally in that the earth has a limited amount of space and resources to offer. Given that a state does not have control over another's population, it is in every nation's interest to limit its own population in order to affect the global population. To illustrate, let us say that Alia, Myra and Nour each own and sublet three apartments in a residential building. This building is located next to a well, where all tenants in the building get their potable water. In order for this to be sustainable, and for every tenant to have access to a reasonable amount of water over the long term, there cannot be more than thirty people living in the building. Alia cannot control the number of people Myra and Nour sublet to: if they each chose to let a family of 6 live in all three of their apartments, they can. But Alia can control the family size

of those that sublet from her to make sure that this scheme remains sustainable. Similarly, while countries may understand that sustainable life on earth is dependent on global population size, no one country can control the population size of another, but they can limit their own to ensure that they respect this global limit.

Miller distinguishes two strategies for limiting national population: (a) implementing growth restricting policies, and (b) exporting one's population (Miller, Immigration: the case for limits, 2005, pp. 199-200). As seen in India and China, growth restricting policies are unpopular. Therefore, it would be simpler and cause less dissatisfaction amongst citizens for a country to facilitate emigration in order to diminish or control national population levels instead. However, while this does affect national numbers, it does not address the aforementioned issue of global population levels. Miller argues that, to effectively control both national and global population, nations must therefore implement growth restricting policies. However, if a few countries do implement growth restriction policies, it is very likely that a substantial amount of citizens will emigrate, rendering these efforts null. Therefore, for the strategy to succeed globally, each nation will have to implement both growth restricting policies and limit incoming migration.

I endorse Miller conclusion that population growth can justify limiting global migration.

### 3.2.b. Restricting immigration on the basis of cultural preservation

A second argument for restricting immigration appeals to the importance of preserving a distinctive national culture. Any given state has a common public culture that is part of its members' political identity, and is thus valuable for democratic and social goals

(Miller, 1995). When immigration occurs, there is an undeniable shift in both local culture and the immigrant's culture. A first component of this shift occurs when immigrants who have entered a new country adapt in order to better integrate themselves into their setting. A second shift happens when immigrants themselves bring and preserve their culture within this new setting, thereby adapting local culture to include their own (Scheffler, 2007). Because this common public culture is an important component of the nation's political identity, it is within citizens' rights to control it. However, it is important to note that change is a significant part of cultural preservation, and that citizens are not justified in demanding that it remains stagnant in order to preserve it (Scheffler, 2007). Hence, a state cannot prevent all forms of immigration under the claim that they wish to maintain the common culture as it is. The question then becomes whether it is justifiable for a state to limit entry of prospective immigrants in order to control the change that the common culture will undergo.

To answer this question, it is important to distinguish between elements of a culture that are necessary for a democratic society, and those that are simply characteristics of that society. In the situation where an aspect of common public culture is merely a characteristic of a democratic society, but not necessary for its democratic character, its change does not threaten the integrity of a democratic, liberal state (Blake, 2008). For example, there are characteristics of Lebanese society that are very important to local culture, such as playing backgammon, drinking coffee, and smoking shisha. While components of the common public culture, they are not necessary to sustain its democratic character, and thus Lebanon is not justified in taking immigration measures to preserve them.

Let us next consider a case in which the cultural element at issue is a necessary component of democratic society. To illustrate, consider the *dewaniyas* found in Kuwait. A *dewaniya* is a large room, either public or private, dedicated to hosting gatherings. Gatherings

within these rooms are socio-politically relevant: meeting in dewaniyas can be used to discuss important matters of common concern, much as town halls do in American society. The cultural tradition of meeting in the dewaniyas to discuss the political, societal and economic issues of the country has become necessary for the public to take an active role within the monarchy and maintain Kuwait's consensual political system. As such, it is among the cultural elements that are a necessary component of democratic society that we must preserve. If immigrants to Kuwait were likely to undermine participation in dewaniya meetings, Kuwait would have a justifiable reason to reject their admittance. However, this outcome is highly unlikely. Approximately 70% of Kuwait's population consists of immigrants, yet many Kuwaiti cultural practices, such as meeting in dewaniyas, have been preserved (Central Intelligence Agency, 2018). This shows that immigration expands local culture, but does not necessarily erase it, since immigrant culture can simply be added to the culture already established in society. If what matters is strictly the preservation of cultural identity, then adding immigrant culture need not threaten this. Although I have only discussed this one example, I strongly suspect that immigration only very rarely, if ever, undermines the cultural elements necessary for a democratic society. If I am right about this, a given nation could not justify limiting immigration on the basis of cultural identity.

Nevertheless, it is important to recognize that multiculturalism does entail a shift in cultural distribution, in that the proportion of people belonging to a particular sub-culture changes. Within a democratic society, the proportion of political opinion shapes local society. Imagine a country X, in which most of those who identify with culture Y believe in a free healthcare system. If those who identify with Y make up the majority of the population, then it is almost guaranteed that the elected officials will advocate and implement free healthcare. In such a situation, your cultural identity affects your political position, and thus the country's

political scene mirrors its cultural make-up. If we assume this to be true, a cultural group could potentially be harmed or undermined if an incoming, larger cultural group diluted its voice and political agency. A majority culture in a country could thus legitimately be worried about a massive influx of a specific culture, because it could affect their political influence. However, this does not justify this group restricting immigration on the ground of preserving cultural identity. A liberal, democratic state is rooted in the respect and tolerance of political opinion and preserving everyone's political agency. By extension, to forbid someone from access to an institution because giving them a political voice could threaten one's own hold on the political scene of one's country is anti-democratic. This point seems especially pertinent given that a shift of the majority's political opinion is an intrinsic part of democracy. I conclude that a nation still cannot justifiably limit immigration based on the goal of preserving its cultural identity.

### 3.2.c. Criteria to justifiably discriminate between immigrants

If we allow that some general immigration restrictions are permissible on grounds of population growth, we are faced with the distinct question of which, if any, reasons for selecting amongst those admitted are permissible. I have already argued that discrimination on the basis of cultural identity is impermissible across the board. But other reasons for discrimination might be allowable. To allow some, but not unlimited, immigration would be to discriminate between the prospective pool of applicants, since it selects and grants entry to some and not others. This, again, might seem inconsistent with liberalism, since liberal political justice requires equal treatment for all those who share the same institutional relationship with a state (Blake, 2008, p. 970). Given that all prospective immigrants are theoretically capable of

having the same relationship with the state they intend to enter, discrimination between them may not seem justified. But everything depends on the *nature* of the reasons offered for discrimination. Blake claims that a democratic state can discriminate between prospective immigrants only if it selects based on characteristics that would be necessary for the success of a democratic community. He puts forth two categories: the potential for economic success and political integration (Blake, 2008, pp. 972-974).

The potential for economic success is a reasonable criterion for discrimination, given that a competitive economy with a tax base is a central component of society. In addition, applying this criterion defuses political resistance to immigration, by resisting the worry raised by many citizens who oppose immigration, i.e. that immigrants cause an economic and welfare burden on the country<sup>3</sup>. However, as I will argue in the following section, this criterion should only be applied to those who do not have a right to enter a country, not to those (like refugees) who have a moral right to entry.

As for political integration, democracy hinges on the capacity of its citizens to engage in political deliberation. This includes a grasp of the local language, an understanding of the country's internal political structure, a capacity to debate politics, and a tolerance for others' perspectives. As such, it might seem appropriate to require these capacities (or the potential for developing them) of those applying to join the democratic community. The worry about requiring such a criterion is that current citizens do not necessarily satisfy it. The Annenberg Public Policy Center, for example, found that only a quarter of American citizens can name all branches of the government (Annenberg Public Policy Center of the University of Pennsylvania, 2017). As citizens of the United States of America show a large gap in knowledge

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<sup>3</sup> I want to note that this worry is oftentimes groundless given the economic benefits of immigration to the host country.

of the US' internal political structures, it seems asymmetrical to ask prospective immigrants to have the sufficient skills to be proficient in political discourse (Cillizza, 2017). How can we defend a criterion as necessary for inclusion within a given society if this is not something that we demand of those already within this society?

To illustrate why this asymmetrical demand is legitimate, let us consider an example. I am someone who values cleanliness, and thus want my household to remain clean. As a result, I do not allow anyone outside my family who consistently makes a mess to come into my house. If my child's friend does not value maintaining a space clean, then I am entitled to refuse him entry of my home. It is noteworthy that I am not responsible for educating this child on how they must conduct themselves when they are guests or visitors of a space. However, I should not use this same criterion for my own child: whether she is messy or not, she would still have a right to enter and use the household. In contrast to the case of my friend's child, I am responsible for educating my child on how to navigate spaces that are not her own, and respect her host's standards. The main difference between the standards I impose on my own child and her friend is that I, as the parent, am responsible for instilling certain values in my child and this responsibility does not extend to her friends. I cannot punish my child by denying her entry if I do not adequately teach her the values I expect her to uphold. This type of asymmetrical treatment is thus justified. Similarly, the state is responsible for educating its population on successfully navigating its political and economic sphere. The fact that this effort is unsuccessful is not a reason for expulsion, but a reason for conducting the effort more successfully in future. The fact that the state is committed to this task does not imply that it is obliged to admit other persons who lack the relevant capacities that it is determined to cultivate. Therefore, a democratic, liberal state would be justified in discriminating between prospective immigrants based on the capacity for political deliberation

(and, for that matter, economic success), even if they do not make citizenship conditional on these values for nationals.

### 3.3 Refugees

I have so far in this chapter explored what I take to be the most plausible general reasons that a nation might have to limit immigration. While a country can permissibly limit immigration based on population control, it is not warranted to do so on the basis of cultural preservation. A liberal democracy can also justifiably discriminate between potential immigrants on grounds of capacity for economic success and political integration. With this general background in place, I shall now turn to examine the sub-set of immigrants with which this thesis is concerned. Which limits can countries permissibly make on the admission of refugees?

When discussing refugees, as noted in the previous chapter, I am referring to « every person who, owing to external aggression, occupation, foreign domination or events seriously disturbing public order in either part or the whole of his country of origin or nationality, is compelled to leave his place of habitual residence in order to seek refuge in another place outside of his country of origin or nationality » (United Nations High Commissioner for Refugees, 1969)<sup>4</sup>. Such people are experiencing a violation of their basic human rights. People whose basic rights are violated have the right to leave their place of residence, if that is necessary for restoration of their basic rights. And yet, would they have the right to enter any state? Since a right to exit entails a right to enter at least one other place, for this right to be

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<sup>4</sup> See Chapter 2 for justification.

secured there must be at least some decent state that does accept refugee populations. According to Miller, no state has a strict obligation to accept a particular refugee, predominantly because there are other ways to alleviate the refugee crises that do not entail participating in the resettlement process (Miller, *Immigration: the case for limits*, 2005). Beyond this, it is unclear that a given state has the duty to take in any refugee. If we grant that a state has the autonomy to bar entry of a particular refugee to a given country, then refugees will not have the right to enter any decent country of their choice – only some. These qualifications might suggest that our duty to admit refugees is in fact rather weak.

In light of such doubts, I want to emphasize two reasons that all states have an obligation to alleviate the refugee crisis *in some way*, including (usually) by admitting refugees as a group, even if they do not have the obligation to admit any *particular* refugee. These reasons are, first, a moral obligation directly to refugees as a group, and, second, the moral and prudential significance of preserving global stability.

I have already given my argument in defense of the first of these reasons. In chapter one I argued that all nations have the duty to help address the refugee crisis, to the extent that they reasonably can, because refugees represent a subset of the global population in a state of extreme vulnerability. The most effective manner to help an individual that must leave or cannot return to their country of origin or nationality is to facilitate their resettlement somewhere else. As a result, most countries will have a duty to admit at least some refugees. (I discuss some complications concerning this duty in the next chapter).

A second argument for why states should engage in alleviating the global refugee crisis is based on the importance of preserving global stability. Mass displacement, whether internal or external, seriously undermines socio-economic and political stability. Studies have shown that, when unregulated, large refugee populations catalyze significant political unrest. This, in

turn, can lead to national and even regional conflict, therefore having a much greater socio-political impact than the cause of the original displacement. To illustrate, Salehyan and Gleditsch did a study examining how refugee populations can cause the spread of civil war (Salehyan & Gleditsch, 2006). This study mentions illustrative cases where large influxes of refugee migration have also resulted in the spread of conflict across the region: the Albanian refugee crisis in Kosovo, for example, subsequently exacerbated the Yugoslav wars (Salehyan & Gleditsch, 2006, p. 343). However, it is important to highlight that within the case of Albanian refugees, it is not simply the influx of refugees that had such heavy consequences, but rather the manner in which the countries involved reacted and handled the influx. Border closures for fear of Albanian refugee migration into Macedonia and treatment of people within Macedonian refugee camps exacerbated already present ethnic tensions, causing substantial unrest from Macedonian Albanians. As a way to avoid and mitigate conflict, US and NATO allies focused efforts on addressing the refugee crisis by managing camps and organizing resettlement (Salehyan & Gleditsch, 2006, p. 346). While the different refugee crises oftentimes involve distinct factors, this specific example and study highlight a generalizable lesson: if managed poorly, influxes of refugees in neighboring countries can initiate a conflict that affects both the neighboring countries and other states in the region. Such conflicts can produce immense human suffering and death. Outsiders have strong moral reasons to prevent the occurrence or escalation of these conflicts, both for their own sakes and for the sakes of vulnerable foreigners.

As a result, nations have an urgent prudential and moral interest in addressing refugee crises around the world, in order to mitigate conflict and preserve global stability. However, it is important to note that I do not think it is appropriate to apply the economic and political

integration criteria when accepting refugees, nor is it legitimate to justify restricting resettlement projects on the basis of population control.

## CHAPTER 4

In Chapter 3, I explored the duties that nations have to accept immigrants and refugees. I first established that prospective immigrants do not have the right to enter any given country. Then, I identified the reasons a country can justifiably limit immigration, followed by the reasonable characteristics that a government can use to discriminate between prospective immigrants to accept some and not others. As discussed, a country can choose to limit incoming migrants on the basis of population control. Additionally, a nation can look at political integration and economic success to determine which prospective immigrants should be allowed to enter. After discussing these issues for immigrants, I looked more specifically into duty of countries to accept refugees. I isolated two reasons that any country has to engage in mitigating the refugee crisis: one is a moral obligation to refugees themselves, based on considerations of humanitarianism and justice, and the other is a more general moral responsibility to preserve global security. Since these two reasons apply to all countries in the world, every nation has a duty to help mitigate the crisis. Given the standard assumption (which I will adopt in this chapter) that the optimal way to mitigate the crisis is through resettlement of refugees. It follows that every country has a duty to accept refugees, provided that they are able to do so, and provided that doing so does not come at an exorbitant cost to the nation.

Once it is established that a group of people, taken altogether, have a first-order duty to participate in achieving some moral goal, a second-order moral question arises regarding the distribution of the costs of fulfilling that duty (Murphy, 2000, p. 105). In other words, now that we know that all must engage, we must identify the extent to which each agent must do so.

In the case at hand, this second-order question is a matter of international distributive justice: how should the costs of resettling refugees be distributed globally? Are some countries morally obliged to take more refugees than others? This question is very pertinent given the unequal distribution of refugee settlement across the world. There is a significant gap between the number of refugees hosted in the global North compared to the number hosted in the global South, with the latter absorbing approximately two-thirds of the world's refugee population (Gibney, 2015, p. 449). According to the UNHCR's Global Trend report published in 2016, the top 6 countries of asylum are: Turkey, Pakistan, Lebanon, the Islamic Republic of Iran, Uganda and Ethiopia (United Nations High Commissioner for Refugees, 2016, p. 3). These countries are, notably, all developing nations, and have less of a capacity to adequately absorb masses of refugees compared with countries with more established economies and welfare systems. This disproportionate burden on developing or underdeveloped countries leads to an inadequate support system for incoming refugees, leaving refugees in a vulnerable position, and places under-equipped host nations under considerable pressure (Gibney, 2015, p. 449). For both of these reasons, establishing a just global allocation system is important.

One helpful way to answer second-order questions of distributive justice, in general, is to identify a set of factors that, when present to differing degrees, might result in some agents having greater responsibility to fulfill the collective duty at issue than others. I will follow this route here. This chapter will identify a set of relevant responsibility-affecting factors, discuss their relative weights, and outline a system for integrating them that would facilitate assignment of responsibility for refugee resettlement. Though many factors might be

proposed as relevant, I will focus on the four I consider most promising in this case: capacity to help, moral responsibility, causal responsibility, and communitarian ties<sup>5</sup>.

#### **4.1 Capacity.**

A centrally important factor when assigning responsibility is capacity, i.e. the ability to perform the duty to right a wrong or respond to a need. Imagine a situation where Ashraf, Ayman, and Kamil are by a pool. Ashraf knocks his head and falls into the pool unconscious. Ayman is paraplegic, and could not efficiently save Ashraf. Kamil, who is able-bodied, thus has the responsibility to remedy the situation and save Ashraf. Notice that, as in this case, a difference in capacity can lead to a difference in responsibility, even if the more capable person has no prior casual connection to the situation that requires remedying. More strongly, even if the less capable person is morally more responsible for the situation, the more capable person may have a greater responsibility to rectify it. Say that Ayman intentionally knocked Ashraf such that he would fall into the pool unconscious: he is morally responsible for harming him. And yet, Ayman does not have the capacity to save Ashraf – Kamil does. In this case, Kamil would still be responsible for remedying the situation and saving Ashraf.

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<sup>5</sup> Another important principle is the refugee's preference regarding the state they will be resettled in. I am sympathetic to the claim that, while refugees have a right to protection by at least one decent state, they do not necessarily have the right to protection by a specific state (Wellman & Cole, 2011). However, I am still inclined to say that it is problematic not to take into account the preferences of those who are significantly affected by the resettlement. I believe that not consulting asylum-seekers on the nation they think would be best for their security and personal development is paternalistic, and that a system that assigns a host country to a person without allowing them substantial input violates their autonomy. I hope that, by raising this point, I invite more research on the specific topic that can help resolve the tension between state sovereignty and an asylum-seekers' preference.

Reflection on cases such as this suggests that capacity is a necessary condition for the assignment of responsibility, an example of the “ought implies can” principle. Is capacity also a sufficient condition? Let us go back to our example of Ashraf, Ayman, and Kamil. As Kamil has a greater responsibility than Ayman to aid given that he has a greater capacity to do so, it seems that relative degrees of capacity can entail differing degrees in responsibility. In other words, the more capable have a *prima facie* greater responsibility to help. Additionally, the relative cost each will suffer to engage in helping is an important factor to take into consideration. In our scenario of Ashraf, Ayman, and Kamil, let us imagine that Ashraf simply tripped and fell while Ayman and Kamil were by the pool. As a paraplegic, Ayman can swim to save him. However, such a task will be costlier in time and effort to him than it would be to Kamil. It makes sense to consider such costs when attributing responsibility to various agents.

Beyond capacity and cost to the duty-bearer, there are other significant factors to consider that I shall elaborate on later in this chapter. I will argue that identifying the agents responsible to assist will depend on (1) relative degree of capacity, (2) relative degree of cost, and (3) three responsibility-affecting factors.

How does all of this apply to the case of refugees? While capacity is a necessary and sufficient condition for a country having some responsibility for relieving the refugee crisis, it is important to distinguish between the two ways that capacity can be understood. A first form of capacity is the bare ability to engage in refugee relief, which I shall refer to as “effective capacity”. A second is the ability to engage in refugee relief without undergoing excessive burdens, which I shall call “reasonable capacity”. Let’s start with the first. What does it mean for a country to be “effectively capable” of resettling refugees? Most institutions grant that

asylum seekers have a right “to a place in which their basic rights [are] respected and [where] they are protected from *refoulement*”<sup>6</sup> (Gibney, 2015, p. 459). In addition, Gibney argues, asylum seekers have a right to integration into a social world, since its loss is a core feature of refugee-hood (Gibney, 2015, p. 460). Therefore, if a host nation is to be effectively capable of resettling refugees, it must be capable of sustainably delivering these three goods: protecting basic rights, guaranteeing *non-refoulement*, and providing access to a new social world. Not all nations who are currently accepting refugees satisfy this condition. For instance, Greece, a country that has undergone a significant economic crisis between 2010 and 2015, is currently hosting over 62 000 refugees (International Rescue Committee). Given its current economy, the mass of asylum seekers that has arrived in the country has caused such a significant burden on Greece that it is not adequately providing for the people it is hosting, leaving refugees in “abysmal conditions” (Human Rights Watch, 2017). Some refugees settled in Greece find themselves in a state of vulnerability that is at best marginally better than the situation they were in in their country of origin. On the other hand, if a nation is in fact capable of protecting basic rights, guaranteeing *non-refoulement*, and providing access to a new social world, it is a *prima facie* candidate for a nation with a duty to do so.

Only *prima facie*, however, because we also need to consider the extent of the nation’s “reasonable capacity” to fulfill the duty. What if providing these goods to refugees imposes an excessive burden on the nation in question? It is widely accepted that if assisting others results in morally significant burdens for an agent, the agent’s duty to assist may be weak or absent. For instance, it would not be condemnable for me not to save someone from drowning if I

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<sup>6</sup> “No Contracting State shall expel or return (“*refouler*”) a refugee in any manner whatsoever to the frontiers of territories where his [or her] life or freedom would be threatened on account of his [or her] race, religion, nationality, membership of a particular social group or political opinion” Article 33(1) of the 1951 Convention Relating to the Status of Refugees.

knew that the chemicals in the pool would cause me excruciating pain once they touch my skin, especially if there are others with me who would be unaffected by the water. Something similar applies to the case of resettling refugees. Say that if country X accepts a large asylum-seeker population, and while resettling them will not cost X so much that it cannot secure their basic rights, it will still slow its economic development by half<sup>7</sup>. In a situation where country Y is identical in X in every way, except that accepting this same population will have no detrimental effect on its economy, it is plausible that Y has a greater duty to take in the population than X (especially if X is not very wealthy to begin with?). So an acceptable distribution of responsibility should aim to be fair towards host countries by evaluating “reasonable” capacity, alongside “effective” capacity.

## 4.2 Communitarian ties

Another (set of) factor(s) relevant to assigning responsibility across distinct agents are what Miller refers to as ‘communitarian’ connections. These are “special ties of various kinds such as those that exist within families, collegial groups of various kinds, nations, and so forth” where people are linked by “shared activities and commitments, common identities, common histories, or other such sources” (Miller, 2001, p. 462). The question of whether or how such ties are morally relevant is controversial among moral and political philosophers. If I, Lebanese, am by a pool in France where another Lebanese woman is drowning, then do I have a greater moral obligation than the French people surrounding us to save her? Skeptics will

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<sup>7</sup> This is an artificial example, and I strongly doubt that accepting asylum seekers would have an economic impact of this nature and magnitude.

say no. Others, however, have argued persuasively that such ties (perhaps not in this specific case, but in others) can have foundational and/or instrumental significance (Miller, 2005; Goodin, 1988).

I cannot go into this complex debate in detail here. I think it very plausible, however, that in the case of refugees, communitarian ties are at the very least instrumentally significant for the assignment of responsibility. To reiterate, one of the fundamental things asylum-seekers have lost as a result of their statelessness is a social world. I have already proposed that offering a decent social world is a necessary component of efficient resettlement, and that a host nation must have the capacity to offer one. However, it is important to distinguish between a decent social world, and a social world ideal for a given individual. To find a decent social world where asylum-seekers will be protected is a right they are entitled to demand from any host nation, and I will thus consider this as a component of “capacity to aid”. But compatibility between migrant and social world is also relevant to consider. Studies have shown that poor resettlement and acclimation have been correlated with higher symptoms of PTSD and depression (Ellis, MacDonald, Lincoln, & Cabral, 2008). Similarly, a lower sense of belonging within certain refugee communities was reported to be correlated with a higher probability to perpetuate violence, especially in situations of low neighborhood cohesion (Ellis, Abdi, Miller, White, & Lincoln, 2015). As these studies suggest, social inclusion and interpersonal factors are correlated with the mental health status of refugee populations, and thus are important to take into consideration when evaluating the manner in which best to help them (Susan, Li, Liddell, & Nickerson, 2016). Because social assimilation is an important component in a refugee’s well-being post-migration, it has moral relevance in the context of resettlement, even if it would not be when broadly discussing aid. Therefore, ensuring that there are communitarian ties between asylum-seekers and their host nation is important to

maximize the application of the good distributed. For example, the Lebanese population has strong communitarian ties to France due to the mandate implemented in the early 20<sup>th</sup> century. As a result, France and Lebanon share a similar political and legal framework, educational system, and spoken language. Resettled in France, a Lebanese with asylum status will thus already be familiar with a number of components – language, politics, education – that minimize the effort on both parties to ensure acclimation.

### **4.3 Causal and Moral Responsibility**

Causal responsibility for a situation B can be attributed to an agent A where A is the (or a) catalyst for B. Moral responsibility is a subset of casual responsibility. It applies when “the agent’s role in bringing about the outcome [is] such that it leaves the agent liable to moral blame” (Gibney, 2015, p. 456). When an agent is morally to blame for an event, this agent must have violated an ethical requirement or exhibited a vice, rendering them at fault. Causal responsibility can occur without moral responsibility. To illustrate, let us say that Jacqueline is hurrying to class, but unfortunately slips on black ice. In an attempt to stop her fall, she tries to hold onto Nisreen and accidentally pulls off her headscarf. Here, Jacqueline has very clearly caused Nisreen’s hijab to come off, but it would not be fair to assign her moral responsibility for the act. Contrast this with another scenario: as Eleanor walks to class, she notices Nisreen, reaches out, and intentionally pulls off her hijab in an act of islamophobia. In this case, Eleanor is both causally and morally responsible for the act. The key difference here is that Jacqueline’s removal of Nisreen’s hijab was accidental and unintended, while Eleanor actively and intentionally engaged in the islamophobic act. Does the difference in responsibility cause a

difference in what we expect each person's response to be? Given that Eleanor is to morally blame for the harm that Nisreen experienced, she should be expected to remedy the harm she perpetuated. But what of Jacqueline? Would she not still be expected to perform the minimum to remedy the harm she has inadvertently created? Even though she is not morally to blame, most of us would consider it reprehensible for Jacqueline to do nothing in this situation. The standard view is that one can be obligated to remedy a wrong even if one is not morally to blame for the situation, but moral responsibility for an event entails a stronger duty to remedy the wrong than mere causal responsibility. How may moral responsibility might apply to refugee resettlement? Great Britain had a mandate in Palestine and was heavily involved in the armament and settlement of Jewish populations. As a destabilizing power in the region, they are morally responsible for the Palestinian refugees that came as a result of the 1948 Palestinian war.

Determining whether or not an agent is morally to blame for a situation is a complex evaluation that is likely to result in significant ethical disagreement across persons. Some would argue, for this reason, that we should restrict our attention to less controversial factors (such as capacity and communitarian ties) when allocating responsibility for refugee resettlement across nations. The result might be argued to be less likely to distract from effectively aiding those in need (Gibney, 2015, p. 457). However, even the capacity factor (if understood in the "reasonable" sense) requires appeal to potentially controversial moral considerations. We cannot avoid making controversial ethical claims in the course of arguments over distributive justice.

#### 4.4. Putting It All Together

I have argued that four factors—capacity to help, moral and causal responsibility and communitarian connection—determine how responsibility for refugee resettlement should be distributed across nations. I have also suggested that these factors differ in weight. The capacity factor is crucial, acting as a necessary condition on a nation's having a responsibility to host refugees. A nation with a communitarian link has a stronger duty to resettle refugees than an agent who has only moral responsibility, and a nation with moral responsibility has a stronger duty than one with merely causal responsibility.

Each of these factors represent different ways in which a host nation, H, might be “connected” to a refugee population, P. According to Miller's “connection theory”, the ultimate allocation of responsibility requires us to “choose the [nation] whose link to P is strongest, or else, depending on the circumstances, divide up responsibility according to the relative strength of connection” (Miller, 2001, pp. 469-471). The stronger the connection, taking into account each of these four factors, the greater the responsibility would be.

Let us examine the application of this connection theory to refugee populations by applying it to a hypothetical scenario. Imagine that Lebanon is undergoing another civil war, and the Greek Orthodox population has been driven out of the nation by Muslim militias. A French official accidentally pushed a button in a nearby army base, sending out an unmarked and untraceable missile into one of these militias' headquarters. The affected militia assumed that it originated from Christian political groups, and their retaliation catalyzed the war. Saudi Arabia has been funding the regional Muslim militias, allowing them to effectively engage in warfare.

Given these “facts”, France has a causal tie to the situation, and Saudi Arabia has both a causal and a moral tie. Moreover, given the religious affiliation of the persecuted group, Greece is the nation with the strongest communitarian connection. We can also stipulate that, in this particular case, Greece has full capacity to comfortably absorb the refugee population, whereas Saudi Arabia would struggle to do so given its own internal strife. According to the connection theory, the responsibility to resettle the Greek Orthodox refugees would be ranked as follows (from strongest to weakest): Greece, Saudi Arabia, and finally France.

What of nations that have the capacity and a significant moral duty to aid, but also an inhospitable environment? In a situation where a country X is assigned responsibility for a refugee population Y, but those in X are hyper-xenophobic, the long-term efficacy of the resettlement process is cast into doubt. As mentioned previously, one of the elements that asylum-seekers lose as a result of statelessness is a social world. Placing them in environments where they will be rejected does not remedy that loss, and may even compound some of the harm they have already experienced. Certain philosophers have disregarded taking this sort of problem into consideration because of the subjective process that identifying racism entails and the leeway it gives certain nations to not engage in refugee relief (Gibney, 2015, p. 457). Yet, given the potential consequences of resettling a group within a population that will reject them, I argue that forcing refugees on a racist and xenophobic region is unacceptable. In such cases, the host nations in question do not in fact have effective capacity to adequately settle refugees, and effective capacity, as I have argued, is a necessary condition of responsibility for resettlement. This isn't the end of the matter, however. Nations whose internal structure will not facilitate positive absorption, could fulfill their responsibility by other means, such as (if resources allow) financially compensating countries that are undertaking the burden of resettlement (Gibney, 2015, p. 461).

## 4.5 Application

I shall now examine how we might apply the above account to current international refugee policy.

The Dublin Regulation III, first established in 1990 and last revised in 2013, is a EU regulation issued by the European Parliament and Council that seeks to establish “the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person”. According to the European Commission’s final report on the regulation’s evaluation, it seeks to accomplish four main goals:

1. establish a clear method of distributing the responsibility to process asylum seekers’ application (Chapter III, No 604/2013);
2. give access to a procedure that is not excessively time consuming to asylum seekers (Chapter VI, Section VI, Article 29, No 604/2013);
3. prevent applications to multiple Member States (Radjenovic, 2017, p. 5);
4. ensure an equitable distribution across Member States. (Mass, Jurado, Capdevila, & Hayward, 2015)

One of the objectives that the Dublin Regulation III seeks to achieve is to prevent applications to more than one Member State by a stateless person. According to the European Commission’s report, Regulation III has had an effect on diminishing multiple asylum applications, but this practice remains common: 24% of applicants in 2014 have already made an application in another Member State (Mass, Jurado, Capdevila, & Hayward, 2015, p. 9).

Beyond multiple applications, another common practice that leads to asylum seekers utilizing resources from a number of nations in the European Union is secondary movement,

where “migrants, including refugees and asylum seekers, who for various reasons move from the country in which they first arrive, to seek protection or permanent resettlement elsewhere” (Radjenovic, 2017). The fact that they leave the country where they first arrived is relevant in that the first entry point of asylum seekers is pivotal in determining the Member State responsible for processing the application. According to Article (13)1 of the Dublin Regulation, “where it is established (...) that an applicant has irregularly crossed the border into a Member State by land, sea or air having come from a third country, the Member State thus entered shall be responsible for examining the application for international protection” (Regulation (EU) No 604/2013).

Situations of secondary movement thus includes instances where an asylum seeker has first entered the EU through a border state, such as Greece or Italy, now responsible for processing the application, but then moves to another state to issue their application there. Unregulated movement of this nature can lead to regrettable repercussions, such as “inefficiencies, administrative duplications, delays and additional costs” (Radjenovic, 2017, p. 3). Furthermore, secondary movement can cause security concerns, especially given that unregulated migration fuels the market for human traffickers and smugglers.

In addition to the consequences affecting Member States, secondary movement can be detrimental to those with asylum status. Unregulated and unmonitored movement renders refugees vulnerable, potentially exposing them to additional exploitation. It can also have repercussions on their residential status, especially in scenarios where the country they sought to live in denies them entry and they are no longer granted official residency in their first host country (United Nations High Commissioner for Refugees, 2015, p. 2; Radjenovic, 2017). Given the implications of such movements, the European Commission put forth a number

of proposals that would complete the CEAS' reform. According to the European Parliament's briefing, the reforms will most probably include:

- Sanctioning applicants who do not remain in the Member State responsible for processing their applications;
- Encouraging Member States where applicants have gone as a result of secondary movement to send applicants back to the nation processing their application;
- Taking into consideration the irregular movement when evaluating the applicant;
- Making processing applications conditional on presence in the Member State (Radjenovic, 2017, p. 7).

These reforms will most probably mitigate the rate of secondary movement. However, they don't address the morally defensible reasons that asylum-seekers may have for making such movement. Asylum-seekers are oftentimes motivated by greater opportunity, protection, and communitarian network in nations other than the one they first entered into (Brekke & Brochmann, 2015; Radjenovic, 2017). I have already established that a host nation must have reasonable and effective capacity to engage with refugees so as to ensure that asylum-seekers are well settled. According to the 1951 Convention and Protocol Relating to the Status of Refugees, a refugee has the right to gainful employment (Chapter III), a welfare system that includes housing, education, and social security (Chapter IV, article 21, 22 and 24), and freedom of movement (Chapter V, article 26), amongst other things. We thus have a situation where refugees are engaging in secondary movement because there is a severe lack of opportunity that hinders their social integration, even though all refugees should be guaranteed the tools to integrate society efficiently.

The question then becomes whether sanctions that predominantly punish the asylum-seeker either by delaying, halting, or negatively affecting their application are warranted. Given

that secondary movement arises from poor prospects for adequate resettlement in a nation, I find that the Dublin Regulation fails to fairly distribute responsibility. Asylum-seekers should not be sanctioned and made more vulnerable as a result of the system failing to secure them the type of resettlement they have a right to. If it is guaranteed that a nation has the capacity to resettle them such that those with asylum status can effectively integrate into society, the motivation to move to other countries will be substantially diminished.

The connection theory that I have argued for in this chapter has two major advantages over the approach embodied in the Dublin Regulation. First, as the above discussion suggests, it addresses the issue of secondary movement in a morally more sensitive manner. Second, it is firmly committed to fair distribution of the responsibility for admitting refugees across countries. The European Commission reports that the Dublin Regulation has failed to reach the goal<sup>8</sup> of ensuring an equitable distribution of applicants across Member States (Mass, Jurado, Capdevila, & Hayward, 2015, pp. 10-11). The importance it places on the nation of first entry translates to border states absorbing the majority of incoming refugees who must cross their borders to enter the EU<sup>9</sup>. Although formulating international refugee policy is no easy task, my account of the moral principles involved can help guide us toward reform of the current system, which fails to take into account the legitimate interests of both refugees and host states.

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<sup>8</sup> See goals listed in section 4.5.

<sup>9</sup> “On the contrary, the criteria may even have exacerbated imbalances between Member States. (...) In circumstances where larger numbers of applicants arrive via the EU’s external borders (as in recent years) the Regulation has the potential to place disproportionate responsibility on border Member States.” EC, 2015, p11.

In Chapter 4, I established a method that regulates the distribution of the duty to mitigate the refugee crisis across multiple nations. This seeks to address the current unjust distribution, where the majority of the cost of resettling refugees has fallen on states in the Global South. I identified four principles to consider when evaluating the distribution of resettlement costs: capacity, communitarian ties, moral responsibility, and causal responsibility. Capacity to aid – both reasonably and effectively – is a necessary condition for an agent to be deemed responsible for absorbing the costs of resettlement. Communitarian ties hold less weight, but nonetheless are crucial for effective acclimation into a host nation. Moral and causal responsibility can also help identify nations that should absorb the cost of resettlement. I then introduced Miller’s connection theory, which states that we should “choose the (nation) whose link to P is the strongest, or else, depending on the circumstances, divide up the responsibility according to the relative strength of connection” (Miller, 2001, pp. 469-471). I argued that these four principles can be applied to the case of refugees within the context of this connection theory. As a necessary condition of responsibility, nations should have the reasonable and effective capacity to aid. I then argued that the three other principles can be understood as links that morally tie agents within our international community to particular refugee populations. Communitarian ties are the most important amongst the three, followed by moral responsibility, and finally causal responsibility. By identifying the links that

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<sup>10</sup> I would like to thank Dina Al-Zu’bi for introducing me to Parekh’s work, which was foundational for the development of this chapter, and for the guidance they offered as I constructed my chapters’ argument. While my thesis contains no direct quote from them, their perspective significantly impacted the direction I took in this final chapter.

tie various agents to various refugee populations, one can identify which agents have which specific responsibilities concerning a given refugee crisis.

Throughout this discussion, I assumed that the most effective way to engage in the refugee crisis was to resettle the stateless through the asylum process. However, what most frequently happens is that, rather than being permanently resettled in a new state, refugees remain long-term in refugee camps. Serena Parekh has recently drawn attention to this feature of the global refugee experience, which had previously been neglected by moral and political theorists writing on the subject. In this chapter I will discuss her important work and explain how it relates to the discussion in my earlier chapters. First, I will explore the solutions the refugee regime puts forth to address statelessness. Then, I will discuss the legal and ontological harm that contemporary refugee camps perpetuate.

### **5.1. Solution to statelessness**

Resettlement is commonly considered the end-goal for refugee relief. The UNHCR, for example, puts forth three solutions to help refugees: voluntary repatriation, resettlement to a third country, and integration into the country of asylum (United Nations High Commissioner for Refugees, n.d.). Note that all three solutions are centered on re-establishing the individual's ties to a state, which fits in the broader ideal that there is "a state for everyone and everyone in a state" (Aleinikoff, 1992). The 1951 Convention and Protocol Relating to the Status of Refugees, meant to protect refugees, also presents policies that predominantly regulate how states should handle the stateless migrants they are hosting, to optimize the integration or resettlement process. This need to reinstate the ties between state and person

stems from the beliefs that (1) asylum should seek to replace the loss refugees experience, and (2) the state is the best agent to do so, a reflection of our contemporary dependency on the nation-state.

As the world is divided into separate sovereign states, each nation's jurisdiction over its territory grants it responsibility for protecting its residents' rights. Beyond the state, there is no regulatory system that has this clear duty to an individual. Statelessness thus results in substantial loss, given that the state is the only institution that has the explicit responsibility to offer a system that allows and enforces justice (Aleinikoff, 1992; Arendt, 1978). Beyond this loss of a system that allows for individuals to secure their rights, being deprived of a state also represents the loss of the social world central to the given refugee's identity (Gibney, 2015, p. 460). To replace this loss would thus come with the "creation or reestablishment of 'social bonds' – either in the country of origin or elsewhere (...), [thereby] ensuring that no individual lacks membership in some state" (Aleinikoff, 1992, p. 125).

There is thus an underlying understanding that to reinstate what the stateless have lost, it is necessary for them to be reintegrated in a decent state. However, this movement from the country of origin, which refugees have left to seek safety, to a place of asylum that would grant them this good entails an "in between" moment. This transitional instance is embodied by camps: they were created as spaces of temporary containment where the displaced can access basic forms of security, and are thus a necessary byproduct of the asylum system. Given the urgency of exiting a harmful situation, it is logical to create a placeholder where those fleeing dire situations can live until they are placed elsewhere.

However, the reality of refugee camps is that they are not temporary placeholders: "the majority of the world's refugees remain for years, often decades, sometimes generations, in refugee camps or informal settlements" (Parekh, 2017, p. 3). Nahr-el-Bared is an example of

this: established in 1949 to accommodate the large influx of Palestinian refugees in Lebanon, it continues to operate 67 years later. Moreover, refugees live in displacement for an average of 17 years (International Rescue Committee, 2016). Looking at data from camps, the number of departures relatively to population size or influx highlights their high retention rates. The Nyarugusu camp, operational in Tanzania since 1996, held 69 448 people in 2016. Of those, only 8 873 were recorded to have departed: this represents 12% of the total population, and an average of 24 people leaving per day. By comparison, arrivals per day averaged at 40 in December of 2016 (United Nations High Commissioner for Refugees, 2017). Not only can camps last for significant periods of time, they also host large numbers and have a much greater incoming population than they do a departing one.

A main driver of this tension between the temporary nature camps should take and their more permanent manifestation is the inaccessibility of resettlement. To illustrate, in 2016, 189 300 out of the 65.6 million people forcibly displaced due to conflict, violence, or human rights violations have been resettled (United Nations High Commissioner for Refugees, 2016). This translates to 0.3% of the people who have a strong claim for asylum status having successful access to it. With asylum status and resettlement so inaccessible, encampments are not temporary in practice, but rather a long-lasting reality.

A key obstacle to resettlement from camps is the preference of international agents for voluntary repatriation. While resettlement and integration in a country are clear goals to help refugees, there is an underlying understanding that the best solution for the displaced is for them to go back to their nation of origin. Parekh notes that this perspective is, at least partially, rooted in Western states' self-interest. The refugee regime prioritizes containing and controlling refugees until their repatriation is possible because (1) those displaced due to war or poverty are not seen as legitimate refugees, and (2) the West sees large numbers of migrants

as a threat to their sovereignty (Parekh, 2017, pp. 24-25). Gibney expands on the non-arrival measures that nations engage in to deter asylum seekers from entering their nations, and identifies that nations are implementing stricter asylum policies out of fear that a growing number of migrants will enter their territories (Gibney, 2015, p. 6). Parekh also lists the different policies that on one hand aim to keep migrants together and close to their countries of origin, but on the other hand keep them as far as possible from the West (Parekh, 2017, p. 25). Prioritizing control and containment thus fuels the long-lasting nature of encampments and statelessness.

## **5.2 Legal violations**

There are important repercussions to utilizing systems of containment meant to be temporary as long-term solutions to the refugee crisis. One very important such consequence is a lack of legal protection that leaves camp residents vulnerable to further abuse. Refugee camps oftentimes operate in legal ‘gray areas’: they exist outside of the host nation’s jurisdiction, even if they are geographically within its borders (Holzer, 2013). Parekh cites France to illustrate this particular legal dynamic: “the state declared that the first floor of the Ibis hotel at Roissy airport would be a ‘waiting zone’ (...) a ‘non-national border zone’ where French national law does not apply” (Parekh, 2017, p. 30). Palestinian camps in Lebanon are faced with a similar issue, where they operate outside of the Lebanese legal system. Due to the legacy of the Cairo Accords (1969), the camps, originally under the jurisdiction of Palestinian authorities, host people who now have “no [political] rights, no civil rights” (Hanafi & Long, 2010, p. 137).

Governmental entities can also create a similar legal limbo when they chose not to formally recognize camps. The Jungle, for example, was a French refugee camp in use between January 2015 until October 2016. It hosted up to 3 000 residents living in abysmal conditions<sup>11</sup>, without access to adequate resources (Topping, 2015). This was predominantly because France refused to formally recognize it as a refugee camp, both divesting itself of any obligations it would have towards the residents and hindering relief organization from accessing them<sup>12</sup> (Clark, 2016). In an attempt to stifle the growing concentration of migrants in this area, local authorities have even explicitly barred humanitarian groups from delivering the necessary resources<sup>13</sup> (Human Rights Watch, 2017).

This lack of legal protection seriously threatens the stateless' wellbeing. In the case of the Jungle, the authorities oftentimes engaged in violent actions towards the residents and aid workers to stifle incoming migration:

“The frequent and abusive use of pepper spray appears, in the cases documented by Human Rights Watch, to serve no purpose other than to harass migrants, presumably to encourage them to leave Calais. Such police behavior is a violation of the prohibition on inhuman and degrading treatment or punishment under human rights law” (Human Rights Watch, 2017, p. 15)

Amongst the many other recorded instances, Parekh reports a study listing the human right violations found in refugee camps in Uganda and Kenya, including sexual violence and

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<sup>11</sup> “We never lived like this before. We feel like we are dying slowly” report’s Kazan, a 35-year-old Iraqi nurse. (Gentleman, 2015).

<sup>12</sup> “However, it was never formally recognized as a refugee camp by the government, creating squalid conditions and preventing large organizations like the Red Cross from providing aid” (Clark, 2016).

<sup>13</sup> “Aid workers described one occasion when gendarmes bearing rifles surround them, and multiple occasions where riot police otherwise forcibly blocked migrants’ access to aid workers and knocked food out of the worker’s hands when they attempted to give food to migrants” (Human Rights Watch, 2017, p.2)

police brutality (Parekh, 2017, p. 32; Human Rights Watch, 2017). There are also structural injustices that have become inherent to camp operations, and yet go against a number of international conventions. The 1951 Convention, for example, includes rights to gainful employment (III), freedom of movement (V(26)), and adequate juridical status (II), all three of which are commonly violated in camps (Parekh, 2017, p. 32). And yet, the stateless do not have access to the adequate legal infrastructure that can protect them from the violations and abuse that arises due to the nature of these ‘temporary’ encampments.

### 5.3 Ontological loss

In addition to the legal vulnerability caused by residence in temporary camps, camp residents face an ontological deprivation – “the loss of something fundamental to a person’s humanity” - that comes from statelessness (Parekh, 2017, p. 82). Drawing from the works of Arendt and Agamben, Parekh distinguishes three dimensions of this ontological deprivation: reduction to bare life, expulsion from a common public, and the lack of recognition that one’s words and actions are meaningful (Parekh, 2014, p. 651).

#### 5.3.a. Bare Life and Refugee-hood

Agamben’s conceptualization of bare-life stems from Arendt’s reading of Aristotle’s *zoe* and *bios*. *Zoe* refers to the biological life that humans have in common with all other living creatures (Owens, 2009, p. 569). In other words, all elements vital for subsistence, such as food, water, and shelter, are encompassed within the *zoe*. *Bios*, however, is the life that is

particular to man, and represents our capacity to speak and act within a political sphere (Parekh, 2017, p. 87). Our contemporary politics are such that these two forms of life are linked, because the moral basis of a state's sovereignty is the holistic protection of its citizens, including their basic, biological needs. Therefore, *zoe* is a central component of citizenship, and thus the political sphere more broadly (Parekh, 2017, p. 87).

Two broad consequences ensue from removing an individual from the nation-state, which I understand as their given political sphere. A first one is the lack of direct protection for their *zoe*, which I began to demonstrate when I discussed the legal violations those in camps face. A second consequence is a loss of a sphere in which to cultivate one's *bios*. As the *polis* is designed to cater to the *bios*, it follows that exiting one's political sphere entails the loss of a space that fosters political life. Agamben argues that once a person is removed from their political sphere, they are reduced to their *zoe* and thus operate as "bare life" (Parekh, 2017, p. 86). Any need or characteristic beyond their subsistence is not recognized.

This perception of the stateless manifests itself in the way humanitarian aid approaches relief for the displaced in camps. Humanitarian endeavors are geared strictly to protect the *zoe* of the stateless, rather than recognizing and treating them as beings with *bios*: multifaceted humans with political agency. Because they are meant for immediate relief, encampments cater specifically to natural or subsistence needs and set aside any needs linked to being a human within a common public. Aid workers and larger institutions focus their efforts on distribution of food, water, basic shelter and clothing, but any demand beyond that either ignored, or answered with punishment (Agier, 2008).

An example that highlights this would be the reforms that the European Commission seeks to implement to counter the secondary movement of asylum seekers across the

European Union<sup>14</sup>. As previously mentioned, the Dublin Regulation standardizes the identification of a Member State as responsible for processing an asylum seekers' application. Secondary movement arises when the stateless leaves the Member State responsible for processing their application in order to find asylum elsewhere. In an attempt to mitigate this, the European Commission proposed reforms that predominantly sanction the asylum seekers and their application process. However, it is important to note that the migrants coming into the EU that engage in secondary movement oftentimes do so to either reunite with their families or find better prospects for social and political agency than those offered in the nation designated to receive them (Brekke & Brochmann, 2015). While these demands are not unreasonable, the reaction from an international community that seeks to help is rooted in punishment. This reflects the idea that humanitarian aid does not aim to do more than protect what is necessary for our survival, nor does it allow those who are bare life to secure the rights beyond that. It is catered strictly to our *zōē*. Those excluded from the common world are thus either non-recognized, or mis-recognized as simply bare life and victims by the included. This is a form of harm, since by recognizing the excluded as something that they are not, the audience is "imprisoning" individuals in a mode of being that does not match their character and needs (Taylor, 1992, p. 23).

We might envision this as an unfortunate, but understandable manner of handling the stateless if this interim period were in fact temporary. However, as previously discussed, statelessness and life in refugee camps is not a temporary situation. Stateless people thus find themselves (1) unable to be a part of the *polis* and access this other component of Human life, and (2) perceived as beings only legitimate in demanding resources necessary for their

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<sup>14</sup> See Chapter 4, 4.5: Application

subsistence. Both are clear violations of a person's dignity. The prolonged reduction to bare life thus renders refugees devoid of full political status: this is the root of statelessness' ontological harm.

### 5.3.b. Inclusive Exclusion

There is a geographical and legal separation between the camps and the rest of the host nation that divides refugees from its physical, social, economic and political world. The exclusion that the stateless experience, however, goes beyond the repercussions of separation previously discussed – it has a specific application that furthers the aforementioned ontological loss. In addition to having their identity reduced to their ostracism, the livelihood of the excluded is dependent on how the state characterizes them. Refugees are a direct example of that: as political spheres reject them, they still define the criteria that make up “refugee-hood” and the type of resources they are warranted to access or demand. The banned are included within political life because they are both defined and treated depending on the nature of their exclusion. They are thus subject to the state, but banned from acting as an agent within it.

This inclusive exclusion defines the systemic abandonment of the stateless by the nation state, which locks them in a state of constant vulnerability and thus constitutes the second dimension of a refugee's ontological loss (Parekh, 2017, p. 91). While it is noteworthy to mention that international institutions are created to protect those excluded from domestic political circles, I think it is insufficient to say that it mitigates this abandonment: the aforementioned violations are all occurring as the UNHCR – an international institution meant to protect the stateless – is active.

#### 5.4 Conclusion – Who is to Blame?

In this chapter I have explored the legal and ontological harms that stateless people undergo when rejected from a nation state and living in camps. Some of these harms are intrinsic to encampments: because of the legal and physical separation between camps and other spaces within the state, refugees are legally vulnerable and excluded from the common public. Other violations, however, are more strongly linked to the atemporal nature that these spaces of containment have taken. Even if some degree of reduction to bare life and inclusive exclusion are necessary temporary harms within a refugee's migratory path, in most cases in our world these harms are not temporary: refugee camps and statelessness are both long-lasting phenomena.

As I argued above, this shift from temporary arrangement to semi-permanent situation is, at least partially, an intentional one. The role of camps is not – practically speaking – to facilitate their residents' transition from refugee-hood to the asylum status. Rather, it is to contain and control large migratory groups until they are able to return to their country of origin. The refugee regime does not aim to make refugee camps a transitory space, but rather a space of control.

To actively contain individuals in a manner that causes such substantial ontological and legal violations is to be responsible for this harm. States who engage in non-arrival measures thus contribute to the containment policies that have rendered statelessness in camps semi-permanent. Given the ontological and legal harm that comes from being a resident of refugee camps, those responsible for prolonging living in such conditions are to blame, at least partially, for causing these forms of harm. Assigning this blame should then translate to a remedial duty. The states responsible for violating the refugees ontological and legal rights are

thus morally responsible for securing them, and should therefore facilitate their reintegration in a decent society.

The first chapter of this thesis discusses the three reasons that compel us to help the vulnerable of this world: our positive duties to alleviate suffering, the responsibility of historically colonial states to help historically colonized regions, and the international community's negative duty to not perpetuate global inequality. Every individual has this positive duty. The latter two theories identify historically colonial states and contemporarily powerful nations as agents that have a significant responsibility towards certain vulnerable populations. I establish in the third chapter that all nations have the duty to accept refugees in their territory. Given this, any nation-state must actively engage in the refugee crisis. This fifth chapter introduces another type of responsibility that ties wealthy Western states to the stateless: nations responsible for the extensive harm residents of camps experience because of their non-arrival measures and containment policies have the duty to remedy it. After identifying the different agents responsible for mitigating the crisis, the distributive system outlined in my fourth chapter should facilitate allocating the burden of resettlement in a just manner.

Until we, as members of the international community, hold those responsible accountable to their duties, we continue to fail refugees. By treating our contemporary refugee relief system as adequate, we are complicit in the stateless' dehumanization. I hope the multifaceted criticism this thesis offers on our current refugee regime brings the privileged of our world one step closer to recognizing and honoring the humanity of those most vulnerable.

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