

The Ethics of Migration Policy Dilemmas

Structural Injustice and the Dilemmas of Search and Rescue in the Mediterranean: A Response to Mann and Mourão Permoser (2022)*

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Itamar Mann and Julia Mourão Permoser's (2022) paper "Floating sanctuaries: The ethics of search and rescue at sea" makes a unique contribution both to the empirical literature on migration and Search and Rescue (SAR) operations in the Mediterranean as well as to our theoretical understanding of the ethics of migration. They explore the ethical dilemmas facing SAR activists in the Mediterranean from the viewpoint of their lived experiences, endorsing what Lisa Herzog and Bernardo Zacka (2019) call an ethnographic sensibility in political theory, allowing them not only to connect normative questions with real-life events and persons, but also to clarify, refine, and better understand these issues relying on the unique perspective of participants.

The ethical dilemma that emerges from this perspective is the one between obeying the urgent ethical command of providing assistance to people in mortal danger at sea, on the one hand, and, through this, contributing to larger systems and processes that make the international migration regime gravely unjust ("the chain" – as one interviewee called it). By obeying the command, SAR activists can inadvertently contribute to the operations of criminal smuggling networks and to pursue their activities, they must comply and cooperate with European authorities thus "assisting European states in upholding an unjust or inhuman border regime" (Mann and Mourão Permoser 2022, 12). In this way, SAR organisations themselves become links in the chain.

In response to this dilemma, SAR activists attempt, in various ways, to transform the rescue vessel into a space of resistance, a floating sanctuary where the unjust and inhumane logics of border control, asylum seeking, and territorial exclusion are suspended, where safe spaces are created free from stigmatizing language and suspicious inquiry into people's past and present situation and eligibility for asylum.

The incredibly complex questions that Mann and Mourão Permoser discuss can be approached from innumerable angles. One perspective, which the authors did not, on

this occasion, explore, is that of structural injustice. This concept, as introduced into contemporary political theory by Iris Marion Young (2011), refers to injustice caused not by unjust interactions between individuals or groups, but rather by large-scale structural processes which are under no one's control.

Some of the injustice of the international migration regime is interactional in nature; think of the way in which many asylum seekers are forcibly detained and brutalised at European and American borders. But as many authors explain, most notably Serena Parekh (2020) in her book *No Refuge*, much of this injustice is structural in nature, i.e., the unplanned and uncontrolled result of large-scale processes spanning over decades, including individual state policies, international treaties, changes in global power structures or the global economy, and so on.

Whereas interactional injustice is traceable to individual decisions and actions, structural injustice emerges from the complex interplay between a myriad of such decisions and actions, such that it is impossible to single out any one of these as being uniquely responsible for the injustice. While this means that no individual or group is blameworthy for creating structural injustice, one of Young's more contested claims, this does not get anyone off the hook. As Young emphasises, we retain responsibility for eliminating structural injustice in which we are implicated precisely because it is through our own actions that unjust social structures are reproduced. No single person, group or state created the world in which thousands are forced each year to take the perilous journey through the Mediterranean in unseaworthy vessels in search for asylum; but we are all implicated in upholding and reproducing this world, and therefore have a responsibility to change it.

One may be sceptical about calling the injustice of the international migration regime "structural." For it appears all too easy to identify the individuals and groups responsible for asylum seekers' plight in the Mediterranean. European states intentionally creating difficulties for asylum seekers, cutting deals with Turkey and Libya to keep them out, criminalising SAR, not to mention the role of criminal smuggling and trafficking networks, right-wing populists demonising asylum seekers and inciting hatred toward them, and the list goes on – there is no shortage of blameworthy agents (Hillier-Smith 2022). However, I think this critique misses the point of analysing these phenomena in terms of structural injustice.

Young's concept of structural injustice is often understood as referring to the unforeseen consequence of individually innocent, rational, and morally permissible actions, as in the case of the tragedy of the commons, for example. However, I believe this is not her point. Rather, the point is that structural injustice is independent of individual wrongdoing even if the latter occurs. In the absence of unjust background structures, no individual action, no state policy, whether right or wrong, would be sufficient to generate the kind of vulnerability and precarity asylum seekers experience at the shores of the Mediterranean. It is the confluence of innumerable individual actions, policies, deals, bargains, and interactions that produce those background structures. One contributes to reproducing these structures through actions which can be individually guilty or innocent, wrong or permissible, indeed, one can contribute to unjust structures by doing what is good, and even what is morally imperative.

And here we can circle back to SAR operations and the ethical dilemma between the chain and the command. There are at least three ways in which the perspective of structural injustice can contribute to a better understanding of this dilemma. First, it helps us appreciate the moral significance of being part of the chain. A natural response to the ethical dilemma of the chain and command is that the worry is misplaced. SAR organisations are not complicit in the injustice of the international migration regime any more than ambulance drivers arriving at the scene of a traffic accident are complicit in others' negligent driving – to use a metaphor suggested by an interviewee (Mann and Mourão Permoser 2022, 11).

On this view, SAR organisations are independent parties intervening in a series of interactional injustices wherein all moral responsibility lies with the perpetrators of said injustices, e.g., criminal smugglers or European authorities. Yet, if this injustice is also structural in nature, then this complicates things. SAR organisations may not be complicit in the wrongdoing of smugglers or European authorities and should not share in the blame for the injustice they commit. After all, SAR organizations do nothing wrong to be blamed for, indeed, they do what they morally must. Yet, through the fact that they are implicated in and through their actions, they contribute to reproducing the unjust background structures of the international migration regime. Therefore, they acquire a special kind of responsibility to act against and dismantle these unjust social structures.

Of course, there are many more who are implicated in the structural injustice of the international migration regime. In this sense, the chain extends far beyond the shores of the Mediterranean; all of those who go along with and contribute to upholding a society in which asylum seekers are systematically marginalised share in the responsibility to act against and dismantle the unjust social systems they, perhaps inadvertently, help reproduce. So what follows from this for SAR organisations specifically? My second point is about precisely this question.

From the perspective of structural injustice, there is not one, but two commands SAR organisations need to respond to: the urgent ethical command of rescue, and the command of dismantling the unjust structures within which they operate. This has several implications. First, it points to the impossibility of a purely humanitarian and apolitical understanding of SAR organisations' work. Some SAR organisations see themselves as apolitical, merely trying to discharge a humanitarian duty to help people in need, and view politics as introducing unwelcome complications into an otherwise morally transparent situation. But as Young emphasises, responsibility for structural justice is political responsibility, i.e., shared responsibility to be discharged together with others implicated in unjust social structures through political action. As long as SAR organisations operate within unjust social structures, they should not ignore the political responsibility they bear, together with the rest of us living in societies that uphold and reproduce these structures, to work against structural injustice.

The second implication of there being not one but two commands is that they may conflict with each other. For any time and resource devoted to collective political efforts to change the background structures of the international migration regime is time and resource taken away from search and rescue. Thus, it seems that SAR organisations face an entirely different kind of dilemma from that of the chain and the command. The problem for SAR activists is not that of "dirtying their own hands and becoming part of a vicious scheme" (Ibid, 8). In some sense, this is inevitable once they become links in the chain. The problem is that this

fact implies responsibilities for them that extend beyond SAR itself which they may only be able to fulfil if they disregard the urgent ethical command of rescue.

One may object that a certain division of labour should exist within the greater effort to dismantle structural injustice.¹ SAR activists, after all, have limited resources, specific equipment, and expertise. They have the tools and know-how needed for rescuing people at sea, but not necessarily for lobbying European legislators for policy reform or for changing public opinion on immigration, for example. It is only fitting that they concern themselves with the humanitarian problem, which does urgently need solution, and leave politics to others.

While Young's framework certainly allows for such a division of labour, for her, this should arise from the concerted efforts of various actors trying to fight structural injustice together. Isolated acts to address various problems within an unjust social structure that do not come together as collective political action do not suffice for discharging the shared responsibility for structural justice. Organisations and activists trying to resist structural injustice must devote at least some time and resources for coordination and cooperation with each other, and thus the new dilemma persists, unless they wholly disregard their shared responsibility for structural justice.

But what may SAR organisations do precisely to contribute to collective efforts against structural injustice? The third point I would like to make offers reflections on this question. I do not think that it is appropriate for the political philosopher to prescribe action plans for activists; when it comes to strategic questions for activism, he or she ought to listen to activists themselves and try to help facilitate critical reflection. Still, I believe that the perspective of structural injustice can help with such reflection when it comes to SAR organisations.

As mentioned, SAR organisations often respond to the moral complexity of the chain and the command by trying to create a liberated space, a "floating sanctuary" on the rescue vessel. They do so by adopting various linguistic practices as well as "internal regulations that suspend as much as possible the applicability of criminal and migration laws" to challenge oppressive and exploitative practices of exclusion and trafficking (*Ibid.*, 18). From the perspective of structural injustice, this strategy has a potential limitation. Mann and Mourão Permoser explain the ethical significance of the floating sanctuary against the background of European states' efforts of 'border externalisation,' i.e., executing border control in extraterritorial spaces of exception to avoid accountability. Answering to such strategies, SAR organisations "effectively turn extraterritorial zones from spaces of lawlessness into spaces of resistance" by upholding humane and solidaristic modes of engagement vis-à-vis migrants (*Ibid.*, 3).

Yet the floating sanctuary so created is in an important sense self-enclosed: the liberation that the floating sanctuary can offer has very strict spatial and temporal limits. One can argue that through these sanctuary practices SAR activists do not so much transform extraterritorial zones as they insulate themselves from the inhumane practices involved in border externalisation, creating islands of solidarity and humanity, showcasing, almost in a prefigurative manner, how people on the move and people at borders could and should

¹ I am indebted to Rainer Bauböck for this point.

interact with each other. While there is certainly great value in doing this, it is not immediately clear how, if at all, this can connect with wider collective efforts for structural change.

The perspective of structural injustice suggests that in resisting the injustice in which they are inevitably implicated, SAR organisations should focus not so much on trying to avoid dirtying their hands and suspending, if only for a moment, the exclusivist logic of borders, but on finding points of connection with other organisations and activists through which different efforts can come together as collective political action aimed at dismantling the structural injustice of the international migration regime.

The shared nature of the responsibility should be emphasized here. Clearly, it is not up to SAR organisations alone to transform the international migration regime. It is up to all of us, and we all need to find ways to create and join collective efforts to dismantle the social structures that continuously and unjustly damage and destroy the lives of people on the move today. One may worry that it would be too demanding to ask SAR activists to mind the wider structural and political implications of their operations. But Mann and Mourão Permoser's paper shows that this is something already on their minds – they are aware of the chain and the command, and many SAR organisations already see their work, I believe rightly, as inherently political. The perspective of structural injustice can help both activists and academics better understand the precise nature of the dilemmas this political work faces and perhaps even their possible solutions.

References

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* I would like to thank Rainer Bauböck, Julia Mourão Permoser, and Martin Ruhs for their helpful comments on this discussion piece.

About the “Dilemmas” project

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

Suggested citation

Kapelner, Z. (2022) ‘Structural Injustice and the Dilemmas of Search and Rescue in the Mediterranean: A Response to Mann and Mourão Permoser (2022)’, Commentary for ‘The Ethics of Migration Policy Dilemmas’ project, Migration Policy Centre (MPC), European University Institute (EUI).

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