

The Ethics of Migration Policy Dilemmas

Robust Protection as Rich Protection? A Response to [Efthymiou \(2024\)](#)

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A well-functioning system of refugee protection should satisfy at least two desiderata. First, it should ensure that a sufficient *quantity* of individuals are protected. Second, the *quality* of protection within the system should be of a sufficiently high standard. In an interesting new article, Dimitrios Efthymiou (2024) argues that the EU quota system places too much emphasis on quantity, to the detriment of certain aspects of the quality of protection. To rectify this imbalance he proposes an account of “robust” refugee protection, whereby protection should be conceptualised as a “a rich good” (ibid, 2). He recommends that long-term policy planning “prioritise minimising concessions to robustness”—that is, he suggests that policymakers should stop trying to increase the number of individuals protected at any cost, and instead place more emphasis on preserving and improving the quality of protection provided (ibid, 13, 17).

My comments centre on some ambiguities in Efthymiou’s account. Section 1 outlines his conception of robustness. Section 2 invites Efthymiou to say more about what rich protection amounts to. Section 3 suggests that decoupling richness from robustness could yield improvements in conceptual clarity. Section 4 discusses some implications of this decoupling for Efthymiou’s assessment of the EU quota system.

Robust Protection as Rich Protection

Efthymiou motivates his account of robustness via the example of refugee protection in Poland. Poland has recently granted protection to very large numbers of Ukrainian refugees, who now make up around 3% of the total population. As such, Efthymiou acknowledges, it might be tempting to conclude that Poland is fulfilling its fair share of responsibility to protect refugees. Prior to the invasion of Ukraine, however, Poland protected very low numbers of refugees—just 239 from Syria, for instance. This, Efthymiou (ibid, 5) argues, indicates that Poland lacks a “robust and, hence, reliable disposition to protect refugees as much as it can reasonably:” Its actions lie not in “a consistent and genuine commitment to refugee protection”, but rather in the fact that protecting Ukrainian refugees aligns with its “national interests and preferences” (ibid).

Efthymiou argues that refugee protection *proper* requires robust protection, which in turn requires conceiving of refugee protection as a rich good.¹ Such goods, he claims, involve the “steady, reliable” provision of an associated thin good, where this good is provided with the “right disposition” (ibid). To illustrate, he compares refugee protection to the rich good of love. Just as robust enjoyment of love requires that others “act with care towards us out of a disposition of love”, so too are refugees robustly protected only if protection is provided “out of an appropriate disposition toward their condition and the interests jeopardised by the conditions they found themselves in” (ibid). As such, if a state provides protection only because it is convenient or beneficial for it to do so, the protection is not robust. Later Efthymiou adds that an “auxiliary mechanism of compliance”—whereby states are empowered to prevent one another from acting in ways that undermine the general fulfilment of refugee rights—is also needed for robust protection (ibid, 8).

Rich Protection

Efthymiou’s observation that protection is of higher quality when provided with an appropriate disposition is convincing. However, the nature of the disposition required for rich protection on his account is somewhat opaque. This is obviously of theoretical importance, but practically too, we need a clear sense of the features associated with an appropriate disposition in order to assess whether particular states are providing protection richly and robustly. It would thus be helpful if Efthymiou said more about the nature of the disposition he has in mind, perhaps addressing the following issues.

First, it would be helpful to know what kind(s) of agential capacities are associated with this disposition. The comparison Efthymiou draws between refugee protection and loving care perhaps implies that for a state to protect refugees with an appropriate disposition, it must hold some kind of *affective* attitude toward them (Naar 2013). Problematically, however, it is doubtful that states can have affective attitudes. As corporate group agents, states are plausibly capable of some kinds of attitudes—like beliefs and desires (Pettit 2004; List and Pettit 2011; List 2014)—but it is unlikely that they are capable of phenomenology, which is needed to experience the feelings associated with affective attitudes (Lovett 2024). Admittedly, some have argued that corporate groups are capable of emotion with a phenomenological component (e.g. Schmid 2014), but claims of this sort are controversial. As such, if the dispositions Efthymiou has in mind do indeed involve affective attitudes, it would be helpful for him to explain why, in his view, states are capable of such attitudes, and what a state’s possession of such an attitude would amount to in practice.

Alternately, though, perhaps all that’s required for the presence of an appropriate disposition is some sort of conative attitude or state of *practical* concern for refugees’ interests. The claim that states are capable of dispositions of this sort is much more plausible (List 2014), and some have argued that these dispositions might be quite rich, even functionally mirroring the practical aspects of emotion found in human agents (Björnsson and Hess 2017; Lovett 2024). As such, if this is what Efthymiou has in mind, it would not be necessary to extensively argue that states are capable of such attitudes. What would be helpful,

¹ It seems to me that this interpretation—of rich protection as necessary for robust connection—best captures the spirit of the relationship between the two on Efthymiou’s account. It is not obvious that Efthymiou sees things this way, however, as he sometimes seems to use the terms interchangeably, e.g. “Conceiving the provision of refuge as a rich good is key here. Robust goods have three key characteristics...” (ibid).

however, is clarification of the nature of the specific practical disposition needed. Conative attitudes can take different forms—practical love might differ from practical care or practical respect, for instance (e.g. Lovett 2024)—and it would be helpful to know precisely what kind of practical disposition is necessary for robust protection.

Rich Protection vs Robust Protection

The preceding section invited Efthymiou to say more about the nature of rich protection on his view. This section focuses on the role of richness within his account of robustness.

As outlined in section 1, the presence of an appropriate disposition is necessary for robust protection on Efthymiou's account. That is, protection must be rich in order to be robust. This feature of the view merits closer critical scrutiny. Why, we might ask, must states possess appropriate dispositions for refugee protection to be robust?

That dispositions are central to Efthymiou's conception of robustness is particularly surprising given his account's neo-Republican influences (Pettit 2012; Lovett 2022). These thinkers famously deny that freedom is robustly secured if its enjoyment is contingent on the goodwill of particular individuals. Instead, they hold that to secure freedom robustly, we need institutions and norms which systematically hinder actors from engaging in unjust interference, whatever disposition they happen to have (e.g. Pettit 1997). One might similarly think that the fact that particular states hold appropriate dispositions toward refugees is neither necessary nor sufficient for robust protection. Instead, the "auxiliary mechanisms of compliance" mentioned later in Efthymiou's discussion seem to play the most crucial role here (Efthymiou 2024, 8).

There are ways Efthymiou might respond to this worry. Following Adam Lovett, for instance, he might argue that a well-constructed institutional system would not be sufficient to robustly ensure that states fulfil their duties to protect refugees. States, after all, are exceptionally powerful, so it is very difficult to impose effective external constraints upon them (Lovett 2024, 3559). For this reason Lovett suggest that states ought to love their citizens, since love is a "robust internal barrier to the misuse of power" (Lovett 2024, 3555). Similarly, Efthymiou might claim that the possession of an appropriate disposition is practically necessary—if not sufficient—for robust refugee protection.

This, I think, is the strongest argument for making richness necessary for robustness. However, there are good grounds to query this sort of move. For the reasons outlined in section 2, the kind of love Lovett is calling for here consists only of a "set of practical and deliberative dispositions" (Lovett 2024, 3549). It is not obvious, however, that a mere practical disposition, devoid of any affective content, is particularly robust or resistant to change. It is even less obvious that such a disposition would be robust when held by a democratic state, whose leadership is subject to re-election at regular intervals.

This weighs in favour of the original neo-Republican account, which decouples richness from robustness. On this approach, a system of refugee protection is robust only if that system's institutions and norms effectively ensure that protection is reliably provided to all refugees. Separately, we can agree with Efthymiou that particular instances of refugee protection are rich only if protection is provided from an appropriate disposition. Further, we can conceptually distinguish between richness and robustness in this way while recognising

that the two are often practically connected. For instance, if several states hold appropriate dispositions toward refugees, this might promote norms which make it even harder for non-conforming states to shirk their duties. Still, this conceptual decoupling has value because it facilitates a more precise evaluation of the quality of refugee protection. This will be illustrated in the following section.

Implications

Recall from section 1 that Efthymiou uses the example of refugee protection in Poland to motivate his account of robustness. In his view, Poland's track record indicates that it lacks a robust and reliable disposition to protect refugees. Its current protection of large numbers of Ukrainians is merely "conditional" because attributable to the fact that "Poland has a national interest in hosting refugees from Ukraine" (Efthymiou 2024, 7).

The problem with Efthymiou's assessment of this case, however, is that Poland plausibly *does* hold an appropriate disposition toward Ukrainian refugees. While considerations of national interest are likely part of the story, it is also true that Polish citizens do feel genuine concern for people fleeing Ukraine (e.g. [Hargrave et al, 2023](#)) and the same can plausibly be said of their state. The reasons for protection in this case simply seem overdetermined.

Distinguishing between richness and robustness makes it easier to pin down the problems with Poland's conduct. The first problem, it seems, is not that Poland lacks an appropriate disposition toward *any* refugees, but that its disposition is unduly narrow, because limited to refugees with whom it shares historical ties and a sense of affinity. Thus while Poland's protection of Ukrainian refugees likely *is* rich, its protection of non-Ukrainian refugees is likely not. The second problem is that Poland's historical track record of protecting such low numbers of refugees suggests that the EU quota system has historically failed to robustly secure refugee protection. In sum, there are deficiencies of both richness and robustness of protection in this case, but they arise for independent reasons.

Next, consider Efthymiou's discussion of the EU quota system. He provides the following case. Suppose non-conforming state A would be willing to protect its assigned quota of one million people on its own territory only if exclusively assigned refugees from preferred country X. If also required to protect refugees from dispreferred country Y, state A would only be willing to fulfil its quota by paying some other state B to protect its share of refugees from country Y. Efthymiou argues that if state A were to take this latter course of action, there may still be a lack of robustness at work. This, he argues, is because "in our rather non-ideal European Union" refugees from country Y would only receive protection because state A (likely an affluent state) had offloaded its duties to state B (likely a poorer state) in an exploitative manner, using its higher GDP per capita to "self-enrich" by discharging its duties to another state where the cost of protection is lower (Efthymiou 2024, 12).

Efthymiou's assessment that there is some sort of injustice here is clearly accurate. However, the details of this particular case do not suggest that the injustice lies in a deficit of *robustness*. Insofar as a system reliably ensures that refugees receive protection from some state, protection itself is robustly secured. Instead, moral problems can be found in two other locations. First, state A's resistance to protecting refugees from country Y is objectionable in itself, and suggests that if state A is already protecting refugees from country Y (or any

other dispreferred country), this protection likely lacks richness. Second, though the system robustly secures protection itself under these nonideal conditions, it lacks mechanisms to ensure that responsibility for protection is distributed across member states in a *fair* manner. Efthymiou rightly points out that this problem ought to be addressed, and his proposal—that affluent states who wish to offload their responsibilities should be required to pay *more* than the cost of simply protecting their quota of refugees in their own country—is an excellent one. It is, however, important to be clear about the problem the proposal responds to. In this case, the issue is more plausibly one of unfair responsibility-distribution in a nonideal context in which one state lacks an appropriately broad disposition to protect all refugees richly. It is less plausible that the deficiency lies in the robustness of protection itself.

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About the “Dilemmas” project

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