

The Ethics of Migration Policy Dilemmas

Are There Effective Points of Intervention in the Humanitarianism-Equity Dilemma? A Response to [Piccoli & Perna \(2024\)](#)

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This forum explores ethical dilemmas that may present themselves to conscientious migration policymakers, opening up a dialogue about pragmatic and moral issues that arise. The article by Lorenzo Piccoli and Roberta Perna, “Civil society organisations and the healthcare of irregular migrants: the humanitarianism-equity dilemma,” offers a case that is particularly “good to think with,” namely, the ethical quandary that occurs when civil society actors step in when the state fails to act. While the article focuses on healthcare for irregular migrants, the takeaway message is broadly applicable to dilemmas facing welfare states at various points in time, and in response to many social issues: What is the desired extent of privatisation and the role of civil society organisations in filling purported functions of the state? At what point do their actions discourage or absolve the state of responsibility? And finally, is this an intentional exploitation of people’s goodwill, moral compass, and desire to act ethically?

This dilemma is fostered through the disconnect between law as it exists in statutes (“on the books”) and law in action — that is, how policies (or the lack thereof) affects people’s everyday lives in the real world ([Abrego and Lakhani 2015](#)). In the case here, irregular migrants, or those in any number of legally precarious immigration situations, experience a gap between rights on paper and their actual implementation. Countries with universal healthcare systems have generally made some nod – however cursory – to including them, assuring their rights on paper. However, when it comes to actually receiving medical care, migrants frequently find themselves navigating a confusing landscape where services are not realistically available for them through regular channels, often due to various forms of bureaucratic disempowerment. This can create dire situations, especially in countries with high levels of migrant irregularity.

Civil society organisations (CSOs) often step in to fill these gaps, with some functioning as intermediaries offering guidance and navigation to migrants trying to access services, while others provide medical services themselves through the efforts of volunteer physicians, charity clinics, and so forth. While the activities of CSOs may look quite different depending

on the specific country or organisation mission, the motivation of staff to alleviate the health-related inequalities they witness shares a common underpinning. But this is also where the dilemma begins: In becoming stopgaps for fissures in the social welfare system (which may be considered intentional, or simply a byproduct), their efforts can also further discourage state responsibility.

Of course, this refers to equity principles found in social welfare states, where there is at least a superficial effort to include all residents; in other places, states deliberately exclude irregular migrants from accessing public healthcare beyond emergency situations (e.g., the U.S. and some EU countries). While dilemmas of care are felt far more acutely in these latter settings – in which irregular migrants are not viewed as entitled to even basic medical services without paying out of pocket, which leads to delays in treatment, unattended chronic health issues, and severe outcomes – the humanitarian-equity dilemma is a particular construction that arises from the principles of social welfare systems.

I am disappointed to say that very little has changed since I began researching this topic two decades ago. Reflecting on the circumstances, the increase in refugee and migrant arrivals starting in 2014, coupled with austerity measures and reduced funding for essential public services, have led to the unquestioned institutionalisation of CSOs in the migrant health sector and solidified this ethical quandry.

It is at this point that Piccoli & Perna (2024) pick up the conversation and push the issue further, offering useful analysis to understand the phenomenon and pinpoint areas malleable enough to be open to transformation. Using data from Italy and Spain to examine the ethical dilemmas that arise for CSOs, they argue that staff face a fundamental dilemma between the tenets of humanitarianism and equity. They conclude that the predicament arises when CSOs substitute (rather than complement) public, state sanctioned, organised, and financed forms of health care services. These humanitarian stopgap substitutions (e.g., treating a singular, urgent health issue) must be read as short-term solutions to what is actually a widespread policy issue. They too conclude that by stepping in to provide care in the short term, CSOs effectively deflect responsibility from governments in the long term, allowing marginalised groups to be further politically excluded and resulting in negative effects for society as a whole, in that it is unable to achieve true health equity. As the authors eloquently state: “The value of humanitarianism today cannot be easily reconciled with the pursuit of equity tomorrow” (ibid, 14). CSO staff do not simply provide healthcare services to irregular migrants; they also play a political role. Rather than expressions of presumed neutrality and impartiality, humanitarian acts are highly political ones and often produce unintended consequences.

A major threat here is cooptation: the process whereby those in power absorb or integrate ideas, movements, or people in order to undermine them, often by incorporating elements into the system without fundamentally changing it. Cooptation is an issue I have been intensely interested in in my own work on migration and health. As one participant in Piccoli & Perna’s study notes, “You realise that the institutions are taking advantage of your presence, of your ethics, of your duty to provide an answer” (ibid, 6). Similarly, in my

research on this phenomenon in Germany, staff reported being frustrated because after decades of work, there had still been no policy shifts in access to care for irregular migrants. Instead, they realised that they were legitimising the inaction of the state. As one person exclaimed, “Here we were, critiquing their policies, demanding change, and they were actually referring people to us for treatment! We even started receiving Christmas cards from them, thanking us for our efforts!” (Castañeda 2013, 236). Cooptation is the most insidious way in which the state is able to absolve itself of responsibility. Of course, there is no singular actor in a state; rather, it is a collection of administrative processes, and it is precisely this that results in disconnects between law-in-books (laws, legal regulations) and law-in-action, which is how it is interpreted and actually applied in society.

The central problem here, as the authors point out, is the negative impact on health equity as a social value and a systemic practice. The activities of CSOs create parallel (or tiered) systems of care, which are potentially unjust structures that effectively challenge the principles of the universality of care. Furthermore, they create ambiguity within the larger healthcare system, undermining quality by creating a “patchwork” of services, in which there may be a lack of accountability of service providers and questions about appropriate resources and capacities. They are ad hoc, in many ways not subject to the same standards or coordination as regular systems of care.

Importantly, they exist because of and also rely upon the motivation of their staff, which leads to questions of adequate human, technological, and financial resources and their sustainability. CSO staff act in response to the humanitarian belief in the value of preventing or alleviating human suffering to promote a decent quality of life through access to both emergency and non-emergency care. They channel indignation against unequal state practices into practical efforts informed by ideas of human rights or humanitarianism, yet their engagement often occurs in the context of local configurations of legitimacy (Castañeda 2011, 2013), which are situated within particular historical contexts and their particularly local interpretations. As a result, there is a risk that staff will prioritise some populations over others (e.g., refugees over labour migrants, or people from certain parts of the globe), thus creating hierarchies of deservingness based on perceived worth. CSOs are neither legally required nor morally obligated to offer equal access to care.

A major contribution by Piccoli & Perna (2024) is their analysis of roles of CSO staff: complementarity, substitution, and/or supplementarity. This typology is useful because the ethical dilemma is experienced differently depending on how staff interpret their role, and it becomes essential for locating a point of intervention. In short, complementary actions refer to formal collaborations with public programs; while the CSOs’ role is clear from the start, staff may be uncomfortable with being, essentially, representatives of the state. For the second category, substitution, CSOs tout their actions as neutral or apolitical, but they still become political actors by upholding a tiered, or parallel system of healthcare provision – and in doing so, they have already neglected principles of equity. However, there is no subjective dilemma for staff in this case, since they are uncritically committed to the project. It is the third category of folks who recognise the dilemma as they willingly “supplement” public care provision. By offering healthcare to irregular migrants while simultaneously making claims of state responsibility for such care, they face the humanitarian-equity dilemma.

This represents a point of rupture; when CSO staff understand they are playing a crucial role in supplementing public health provision, they recognise that humanitarianism may be incompatible with equity. Rather than ignoring the dilemma, they may protest through advocacy or litigation, although this may compromise their funding base. Lobbying efforts promise better outcomes but are also expensive and time-consuming. Thus, even these actions to mitigate the effects may in some ways feel futile.

In my view, however, they are still able to shift the frame of the conversation through these strategies, dynamically structuring the terms of debate about medical care for irregular persons by bringing awareness to the issue (Castañeda 2013). Though coopted, critically examining their role in reproducing the structures they are attempting to replace and raising their voice is necessary. Their efforts are particular acts of citizenship, as citizens motivated to step in on behalf of noncitizens, claiming rights not for themselves, but for others. Though discouraging at times, their critical outrage is indispensable. CSO staff, and particularly physicians, occupy a privileged position in society as moral spectators, who are able to combine prestige and social status with the capacity for public intervention.

The conclusions of the article are broadly applicable to other dilemmas regarding privatisation in welfare states and the distinct role of civil society organisations. Often, these are invoked during times of austerity measures, or as ideologically driven efforts to seek creative solutions in the private sector. Equity on paper is not translated to equity in action where implementation of services is hindered by pragmatic concerns, such as providing adequate mental health services or for addressing crises of homelessness and food insecurity. In contemporary debates on these issues, the role of CSOs as service providers is “frequently portrayed as a panacea for all social problems” (Piccoli & Perna 2024, 3), especially as CSOs take the convenient role as welfare-service providers alongside the state. This article points to the ways in which CSO staff are key political actors, often undermining social equity principles and risking complicity in the further exclusion of marginalised groups. But it also points us to possible nodes of action and transformation.

References

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About the “Dilemmas” project

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

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